17. A manurial experiment on grass land is being carried out as follows on plots of 1 acre :—

Plot I	...	No manure.
II	...	Farm yard manure 5 tons.
III	...	Fish manure 5 cwts.
IV	...	Basic slag 5 cwts.

Portions of the pasture area have been sown with Pillapasara and this has done fairly well. The pasture area has been harrowed and a number of small shrubs removed and this has improved it.

18. Levelling of fields has continued throughout the year. Bunds have been strengthened and some of the fields realigned. Approach roads have been made to most fields.

19. The trees planted along the fence are growing slowly, several of them have died off. The trees on the shelter belt near the building are growing well.

R. W. LITTLEWOOD,
Deputy Director of Agriculture, Live-stock.

II

COMMUNICATION TO THE COUNCIL.

The SECRETARY then laid on the table his report * on his deputation to England to study Parliamentary Procedure.

III

THE MADRAS SURVEY AND BOUNDARIES BILL, 1921—*cont.*

The House resumed consideration of clause 12 of the Madras Survey and Boundaries Bill.

Clause 12—cont.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" Sir, I shall merely emphasise what I said yesterday, viz., that the Bill, as now framed, allows two very prominent concessions over the existing provisions in the Act. In the Act of 1897, an unconditional period of three months only was allowed ; no concession was allowed to the appellant to count the period that was occupied for obtaining copies of the orders of the officer against whom he intended to appeal. In the present Bill we have definitely added a proviso (proviso No. 1), which reads :

Provided that the time taken to obtain a copy of the decision and of the map shall not be included in the period of two months allowed for appeal.

" Not only that, Sir ; we have also decided to add a special proviso which does not find a place in the present Act. That proviso is that absolute and unfettered power is given to the appellate authority to admit appeals which are barred by clause 12 and in respect of which the appellant is able to urge sufficient reasons for the admission of his appeal. Now, when all these three provisions are read together it will appear to the House that against the original period of three months we have now allowed the appellant longer period. For, I think it was stated last evening in this House by my hon.

* Vide Appendix D on page 1149 infra.

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Clause 12—cont.

friend from Bellary that, at the present moment, there is a lot of delay involved in obtaining copies of records from survey officers about decisions against which parties intend to appeal; and, I think, I had an impression when he was speaking that in some cases it also so happened that records were given after the period of appeal had expired."

Mr. A. RANGANATHA MUDALIYAR:—"No, Sir. I only stated that it might be more than three months before they were received."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Thank you. In any case, from the date of the notice given to him under clause 11, that his case has been disposed of in a particular manner, whether it be under clause 9 or whether it be under clause 10, the party is given reasonable time for the purpose of applying for and securing the copies of records. After he has secured these records, he is allowed a definite period of two months within which to decide whether he should prefer an appeal, and, if so, what action he should take in respect of that appeal. And then again, he is given another concession: if for any exceptional circumstances beyond his control, it has not been possible for him to take advantage of the two months, he is allowed the liberty to put in his appeal before the appellate authority and mention the circumstances which prevented him from doing so in time, and that appellate authority is given the discretion to admit the appeal. This allows the appellant a much longer time than contemplated by the present Act. Sir, may I say that the longer the time taken by the appellant for the purpose of preferring his appeal and for the purpose of securing a decision on the appeal, the longer will it be necessary for the Government to detain the survey party in that particular district?

"I am anxious, and I am sure the House is also anxious, that the appeals should be heard and disposed of by the survey officers as far as possible in and around the places where the appellants live. I repeat that it will become necessary for me to detain the survey party in the district until all the appeals have been received and until all of them have been disposed of. This again means much more expenditure than is incurred at the present moment by the survey parties. I am trying, and every one in this House is trying, to effect economy in the expenditure on survey in the Madras Presidency; but if the House is going to add provisions which will swell the expenditure under survey, I am afraid our aim will not fructify. In view of these circumstances, I would further appeal to the House to see whether it is absolutely essential that the two months' period should be raised to three months and whether provisions do not already exist which allow sufficiently long periods for the appellants to put in their appeals."

11-15 a.m.

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"Sir, I am sorry I cannot see eye to eye with the hon. the Revenue Member even when he has chosen to draw the red-herring of additional expenditure in the matter. In several cases the landholders are away from the places of inquiry and we are bringing in this Bill a provision that even in ex parte matters, even when there is no dispute, the decision of the survey officers is conclusive except when set aside by appeal. It may be some time before the agent or the lessee can know what is done by the survey officers. The agent or the man on the spot should first ascertain it, then put himself in correspondence with the principal, and, then, if he gets the information to proceed,

he should apply for the copies and forward the same to the principal. Thereafter he must wait for instructions to file an appeal or not, and when such instructions are received, he should present the appeal. So, Sir, considering these several inevitable delays, I think that the three months asked for is not too much at all. It is only because finality is attached to ex parte decisions, I support the insertion of three months.

"With regard to the question of cost, I may also state, Sir, that it is not as soon as orders are passed that the Survey department leave the district. They have to bring the records up to date; they have to complete their maps and have to do so many other things, all of which generally take them several months before they are able to leave the district in which these orders have been passed. So this question of expenditure has been unnecessarily dragged into this matter, and I do not think that we should be led away by that consideration. It is not really a matter which affects the case. So, Sir, I hope the Council will, in view of clause 13, accept this amendment."

Mr. W. VIJAYARAGHAVA MUDALIYAR :—"Sir, in gratefully acknowledging the solicitude evinced by the Government on behalf of the parties affected, we should see that all facilities are given to them in the matter of preferring appeals. I think, Sir, that, in spite of the general provision made that the time taken in obtaining copies of the records will be excluded from the period allowed for appeal, this small alteration of two months into three months is quite necessary and I hope that the Government will be pleased to accept this amendment. Sir, although this provision for the exclusion of the time taken in obtaining copies may be considered to have the effect of lengthening the period allowed for appeal, there are certain other provisions which work to the detriment of the parties. For instance, while the hon. the Revenue Member is very anxious to see that appeals are disposed of as quickly as possible, he has not made any provision as to the manner in which the notice is to be served; nor has he said anything about the notice being served on the party affected. As it is, notices are supposed to be served on the parties if they are published in some prescribed manner; for instance, a notice pasted on the wall of the house wherein the party is supposed to be residing is considered to be sufficient. There is thus the contingency that the notice may not reach the actual person affected. Secondly, Sir, in such small matters like applications for copies of documents, the subordinate revenue officer insists upon the person affected appearing in person for the purpose of presenting the application, and applications from proxies are not entertained. Taking all these difficulties into consideration, I think, Sir, that this small concession of allowing three months for appeal will add very much to the convenience of parties and I request Government to accept the amendment."

Rao Bahadur C. V. S. NARASIMHA RAJU :—"Mr. President, I should like to point out that it will be very convenient to the party concerned if this amendment is accepted. Otherwise, his right to obtain remedy in a civil court under clause 14 will not in any case be barred, and, if he fails to get a remedy from the appellate authority, it will only drive him to file a suit in a civil court. So, in order to avoid litigation, it is better that the time for obtaining remedy from the appellate authority is extended."

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Clause 12—cont.

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" Mr. President, the period of limitation that is prescribed is not prescribed in the ordinary way. The clause is :

An appeal preferred under section 11 may be summarily dismissed if it is not filed within two months from the date of service of notice under section 8, 9 or 10.

" Therefore, it is not a period of limitation in the ordinary sense of the expression. Under the Civil Procedure Code there are orders which have to be set aside within one month and there are orders contemplated by the Limitation Act which also have to be appealed against within one month. So there is apparently no particular hardship in having a limitation of two months. In a sense all laws of limitation are unjust. The liberty of the subject in any matter cannot at all be hampered by any direction either of the legislature, or of the administrative authority ; but for purposes of expediency it is necessary to have a speedy termination of disputes which crop up in such matters. I think it is on the whole to the benefit of the person whose boundaries are interfered with that there should be as little delay as possible in the disposal of his case. Moreover, I may point out that the time of two months is one which is not prescribed strictly as a period of limitation, because the proviso says :

that the appellate authority may admit an appeal after the expiry of the said period on his being satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period.

" I do not know if three months will be any better than two months, or if two months are going to be any better than one month for a person who is not going to take note of any notice served in the prescribed manner ; but for a person who is diligent, one month is long enough. There is absolutely no reason why we should be increasing the period of limitation in matters of appeal. I can quite understand if it is a question of the curtailment of the liberty of the subject with reference to the establishment of substantial rights. Of course, if the hon. the Revenue Member is going to accept the amendment, I have no objection even to six months being given."

Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, in the existing Act the period of appeal prescribed is three months. In the original Bill submitted to this Council the period fixed was one month. In the Select Committee the question was considered and a compromise was arrived at, viz., a period of two months ; and it was also inserted therein that the time taken for getting copies of the order in order to file an appeal should be counted in favour of the appellant. This provision is not in the existing Act. It has been borrowed from the Limitation Act. So also is the other provision, which relates to the discretion allowed to the appellate authority in admitting appeals even after the expiry of two months. However, respecting the strength of feeling in this House and considering the fact that the Government is not going to be a loser by extending the period from two to three months, I hope the hon. the Revenue Member will reconsider the matter and be pleased to accept the amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, if I, at this stage, wish to make a few remarks, though I am aware of the attitude of the hon. the Revenue Member at present, it is because there is an idea that in the Select Committee an amount of concession has been shown by extending the

Clause 12—cont.

period of one month originally prescribed to two months after allowing the concession given in the Limitation Act. I think, Sir, that any one who is acquainted with the ordinary procedure in every appeal will realize that this is a provision which has been in operation generally, and I do not understand how it has been conferred as a special privilege when it has already been enjoyed by the parties affected. After all, the provision for excluding the time taken for granting copies and the privilege given to the officer to condone delay are nothing new. It is in the general law of the country—in the Limitation Act—and it has been extended to this Bill and the mistake in this Bill has thereby been rectified. So there is absolutely no question of any concession being shown in this Bill. I now intervene because I find that two hon. Members who have been in the Select Committee wish to support the provision of two months on the ground that some concession has already been shown. . . . . "

Diwan Bahadur M. KRISHNAN NAYAR :—" I have a word of personal explanation to offer, Sir. If that reference is to me, I may say, Sir, that I was not speaking against the amendment and I concluded my remarks by specifically asking the hon. the Revenue Member to allow this amendment to go forward."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I quite properly understood Mr. Krishnan Nayar to support the principle of the amendment made in the Select Committee. This he simply gave up by saying that since there was a strong feeling in this House, and notwithstanding the fact that the amendment in the Select Committee was a very reasonable one, the period of three months might be accepted. In fact, there is absolutely no special concession shown here. The period of three months is already there and the restoration of it is but bare justice."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB BAHADUR :—" In view of the strength of the feeling expressed in this House in favour of this amendment, whatever my views on the question may be as regards the sufficiency or otherwise of the two months which have been provided for in the Bill, I accept the amendment."

The amendment was then put and carried.

Consequently the following amendments fell through :—

Mr. M. SURYANARAYANA :—

24. *For the words 'two months' wherever they occur in this clause substitute the words 'three months'.*

Mr. K. PRABHAKARAN TAMPAN :—

25. (i) *For the word 'two' in line* 31, *substitute 'three'.*
(ii) *For the word 'two' in line* 37, *substitute the word 'three'.*

Mr. B. MUNISWAMI NAYUDU :—" Mr. President, the amendment standing against my name reads :—

26. *Add, at the end, the following* :—

Explanation.—The fact that notice under sections 8, 9 *or* 10 *was not served personally on the appellant or that no notice was given to him shall be deemed to be good and sufficient causes within the meaning of the above proviso.*

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Clause 12—cont.

"Sir, it will be found that, under clause 13 of this Bill, once a survey has been completed and the completion has been notified, it immediately becomes conclusive against all persons, whether notice is served on them personally or not. Under clause 9 the order is to be served upon the registered holders of the lands the boundaries of which may be affected by the decision. In section 10, it is to be served on the parties to the dispute and other registered holders of the lands the boundaries of which may be affected by the decision. While therefore notice is provided for the registered holders and other parties to the dispute, there is no notice provided generally for other persons affected. Under clause 13 all other persons to whom no notice has been served will still be bound by that decision, because notice has been served upon the registered holders. It may, therefore, happen that there are a number of persons who are affected by this decision to whom no notice is given. The clause says that the appeal should be filed within two months. What is to become of the persons to whom no notice is directly given and who are yet asked to file an appeal within the two months from the date of the service of notice? Service on whom? Service on the registered holder and not on the persons mentioned above. Registered holders may not include all the persons really affected. Therefore, Sir, in the case of persons to whom no notice has actually been given, it is necessary that, after they have come to a knowledge of it, they should be entitled to prefer an appeal.

"There is, no doubt, a proviso saying that the appellate authority may admit an appeal after the expiry of the prescribed period if he is satisfied that the appellant has good and sufficient cause for not preferring the appeal within such period. But as we have known very well from the administration of the Limitation Act that proviso is more honoured in its breach than in its observance. Even when such things are dealt with in court it is not very easy to persuade the judges to accept that there is a sufficient cause. More often than not we find that for statistical purposes it is thought easier to dismiss a petition than to allow it to pend. Such temptations can prevail in the case of the survey officers also, who, as the hon. the Revenue Member said, will have to be moving and may not bother themselves to hear a particular appeal, unless there is very meticulous care exhibited to prove that the appeal is in time. Therefore, Sir, my proviso will help such persons as come to know of the real fact after the expiry of the three months mentioned in the Bill. It is necessary to see that the interests of these people are not dependent upon the good will of the officers concerned by embodying the proviso I suggest in this Bill."

11-30 a.m.

Mr. W. VIJAYARAGHAVA MUDALIYAR:—"I have already stated in the course of my remarks on the last amendment that notices are not generally served on those to whom notices are due. The case referred to by my hon. friend shows that there may be persons, other than those on whom notices are served, who are entitled to appeal. Therefore, Sir, if it satisfies the appellate authority that the person comes immediately after learning of the issue of the notice it must be considered a sufficient reason for excusing the delay in filing the appeal. Unless a statutory provision is made for making such allowances, I think the interests of such men will be greatly jeopardised. I therefore support this amendment."

Clause 12—cont.

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—"In supporting this amendment I shall only add this: All that is now sought to be introduced is a provision like the one which exists in the Civil Procedure Code. Ordinarily what is contained in this explanation will be a very good reason to set aside the order. It is only to prevent mistakes that this is sought to be introduced in the Bill. So, Sir, I hope the hon. the Revenue Member will accept the amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"When I read this motion, it struck me that the absolute and unfettered discretion, which was going to be conferred on the appellate authority by the second proviso to admit appeals if he was satisfied that the appellant had good and sufficient cause for not preferring the appeal within the prescribed period, would be restricted by the addition of an explanation in which the appellate authority's discretion would be pointedly drawn to the fact that what was usually contemplated by the expression 'sufficient cause' was a case in which notice had not been personally served on the appellant or a case in which no notice was given to him. I was, therefore, afraid that the addition of this explanation might be to the prejudice of the appellant rather than to his advantage. Though no more a lawyer, I may say that we are all conversant with that usual expression *ejusdem generis* by which while construeing an enactment you have to keep in mind the object to which the law makes reference. Now, if you were going to add this explanation and say that the species which are contemplated in the second proviso must be more or less of the nature specified in the explanation, it was possible, I thought, that the appellate authority might construe the second proviso rather to the disadvantage of the appellant. But, however, as the hon. the mover, the seconder and the supporter give me the assurance that this is going to be to the advantage of the parties, and if they have not any such misgivings themselves as I have in the interests of the appellants. I shall certainly not stand in the way of their having this explanation added in the body of the Bill.

"But one suggestion I shall make, and it is this: The words 'served personally' may lead to some complications on certain occasions. We are not dealing with courts of law where an identifiable *A* is the plaintiff and an identifiable *B* is the defendant and when the process-server has to go and serve the notice in person either by delivering it to the party or somebody else. In the case of lands we have unfortunately the absentee landlords also to take into consideration and probably the absentee landlords may have their agents who are the proper representatives, they may have given a power-of-attorney to some individual who is managing the affairs. The survey officers may consider that the service on any agent whether with or without the power-of-attorney is sufficient for purposes of appeal. But if the word 'personally' is put in, it may lead to complications, and the survey officer will have to serve the notice either personally or by registered post and so on. This will complicate things and lead to unnecessary delay. As we are now going to frame rules under clause 26 for the purpose of dealing with all matters, such as how notices should be served, in what form, etc., I think the hon. mover will do well to have the word '*personally*' substituted by the words '*in the prescribed manner*'. The explanation will then read as follows: 'The fact that notice under sections 8, 9, or 10 was

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Clause 12—cont.

not served in the prescribed manner on the appellant or that no notice was given to him shall be deemed to be good and sufficient causes within the meaning of the above proviso'."

The hon. the PRESIDENT:—"I think it will be better if it is proposed as an amendment to the amendment. Then let it be decided by the House."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"So, with your permission, I propose the substitution of the words '*in the prescribed manner*', for the word '*personally*' in line 2 of the proposed explanation."

The hon. the RAJA OF PANAGAL:—"I second it."

Mr. B. MUNISWAMI NAYUDU:—"Sir, I shall make my position clear. When I gave notice of my amendment what was in my mind was that there could be cases in which it might not be possible to serve notices even in the prescribed manner. It will be observed that in the Rent Recovery Act, the Civil Procedure Code and the Estates Land Act, although the statutes provide for personal service on the defendants, the notices are practically fixed on the house or something like that. It is because the rules provide for this indirect method of service that I say that, even when indirect methods are resorted to, it may be that the owner is not personally aware of all these things, and there may be a necessity for the owner, when he comes to know of the decision, to prefer an appeal. If the amendment is accepted it may be that the appellate authorities say: 'It cannot be served upon him personally and therefore it has been fixed on his house.' Then the object of my mendment will be practically lost. If the Council is prepared to show some concession wherever the notice has not been personally served and wherever the person concerned has not been given a sufficient chance to appeal within the three months' time, the appellate authorities should by the force of the statute say, 'here is an appeal which should be admitted'. Therefore the hon. Sir Habib-ul-lah's amendment nullifies my amendment. I would urge upon the House the necessity for accepting my amendment."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"I do not think that the amendment proposed by the hon. Member will suit the requirements of the case. If you are going to have an explanation, the only way to have it is that suggested by my friend, Mr. Muniswami Nayudu. The clause, 'the fact that notice is not served on the appellant personally' in explanation, is taken from the Civil Procedure Code. 'Where notice is not served in the prescribed manner' is only an addition to that. Therefore I do not believe that the substitution of the words 'in the prescribed manner' will be of any use. If you are going to have the spirit of the explanation of Mr. Muniswami Nayudu, it is not correct to say that we should substitute the words 'prescribed manner'. Therefore I oppose the amendment of the hon. the Revenue Member."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I do not think the introduction of the words 'in the prescribed manner' will improve the situation at all. The explanation is intended as a safeguard against cases where the service has not been effected in the prescribed manner. If notice is not served in the prescribed manner there is no notice. Therefore the fact that it is stated in an explanation goes to show that where the notice has not been served personally on the man, the courts should set aside the order.

Clause 12—cont.

That being the case I do not think my hon. friend's amendment will achieve anything except saying that the prescribed manner will be prescribed by the rules. If, after all, the notice is not served in the prescribed manner the court must come to the conclusion that it not has been served at all—a fact which need not be mentioned in an explanation. I therefore oppose the amendment of the hon. Member."

11-45 a.m.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I merely wanted to point out the difficulties that arise if we insist on the notice being served personally in every case. I have already pointed out, Sir, that in several districts we have, what we call, absentee landlords. If it is stated that the notice should be served on the landholder—that is the only individual we have on record—and if the landholder happens to be absent, then difficulties will arise. I think that in such cases, for the sake of facility and expedition, the Survey officer may serve the notice on the authorized agent of the landholder concerned. The agent will at once communicate with his master and get instructions from him as to whether he should appeal, or the agent may himself prefer the appeal. Merely for the purpose of convenience and for the purpose of rendering the working of this explanation somewhat easy, I moved my amendment. But my hon. friends who are lawyers themselves quote certain provisions from the Civil Procedure Code and say that this explanation, as it is, is strictly in conformity with the provisions in the Civil Procedure Code and that my amendment is not worth the breath that I wasted on it. If this is their intention, I certainly do not press my amendment."

The amendment was by leave withdrawn.

The main amendment of Mr. B. Muniswami Nayudu was then put and passed. The explanation was added.

The following amendment was not moved and was therefore deemed to have been withdrawn:—

New sub-clause.

Mr. B. MUNISWAMI NAYUDU:—

27. *Number the existing clause as sub-clause* (1) *and add the following as sub-clause* (2):—

'The decision or order of the appellate authority shall be recorded in writing and the purport thereof communicated forthwith to the parties concerned, a copy of the order and the map regarding the boundaries as determined being furnished to them on their application and at their cost'.

Clause 12 as amended was put and passed and added to the Bill.

Clause 13.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I beg to move—

28. *After the words 'district gazette' insert the words 'and a copy of such notification shall be published in the village chavadi of the village to which the survey relates.'*

"The object of this amendment is to ensure the notification of the orders passed under sections 9, 10 and 11 being published in the village. I think that this notification should be published the district gazette and also in the village, so that the villagers concerned may know it."

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Clause 13—cont.

Mr. R. SRINIVASA AYYANGAR :—"I second the amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I have certainly no objection, Sir, to the principle involved in this amendment. I am quite prepared, as I have said the whole of yesterday and to-day, to see that all these notifications reach the proper quarter so that no ryot or villager may say that he is not aware of such a notification. At the same time the House is probably aware that there are no chavadis in some of the villages. If by law I am required to affix a copy of the notification in every village chavadi, I must at once begin the construction of chavadis in villages where there are no chavadis. Therefore, if hon. Members will permit me to insert the words 'if any' after the word 'chavadi', I have no objection to accept the amendment. I move, Sir, that *the words 'if any' be inserted after the word 'chavadi'* in the amendment of Mr. Ramachandra Rao."

The hon. Sir CHARLES TODHUNTER :—"I second the amendment."

The motion was put and carried and the insertion made.

The amendment of Diwan Bahadur M. Ramachandra Rao Pantulu was put and carried.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I move, Sir, that *a semicolon be substituted for the full stop after the word 'relates'* in my amendment."

Mr. R. SRINIVASA AYYANGAR :—"I second it."

The motion was put and carried and the subtitution made.

The following amendments were not moved and were therefore deemed to have been withdrawn :—

Mr. M. SURYANARAYANA :—

29. *Put a full stop after the word 'gazette' in line* 49 *and omit all the words occurring after it.*

Mr. B. MUNISWAMI NAYUDU :—

30. *Omit the full stop at the end and add the following 'as against persons to whom notice under sections* 8, 9 *or* 10 *was given and as between the parties to the appeal preferred under section* 12 *including those to whom notice of such appeal has been given and those claiming under such person or parties or any of them.*

'Explanation.—Where parties litigate bona fide in respect of boundaries of property claimed in common for themselves and others, all persons interested in such boundary dispute, shall for the purpose of this section be deemed to claim under parties so litigating.'

Clause 13, as amended, was put, and passed and added to the Bill.

Clause 14.

The following amendment was not moved and was therefore deemed to have been withdrawn :—

Mr. M. SURYANARAYANA :—

31. *Omit the figure '9' in line* 3.

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Clause 14—cont.

The following amendment was deemed to have been withdrawn, the Member not being in his place :—

Rai Bahadur T. M. NARASIMHACHARLU :—

32. *For the words 'one year' in line* 6, *substitute the words 'two years'.*

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I beg to move—

33. *For the words 'one year' in line* 6, *substitute the words 'three years'.*

"It will be found that in clause 13, which has just been passed, provision has been made for the survey of a land or boundary, notified under section 5, and completed in accordance with the orders passed under section 9, 10 or 11, being duly notified and

unless the survey so notified is modified by a decree of a civil court under the provisions of section 14, the records of the survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded.

"Again it will be found that the time prescribed under clause 14 for instituting a suit in a civil court is only one year from the date of the notification under clause 13. I submit, Sir, that this period of one year which is prescribed is too short for the purpose. The reasons for my amendment may be clearly seen from the report of the Select Committee in dealing with clauses 13 and 14 of the Bill. This is what they state :

These sections have engaged our very careful attention and we have had presented to us very forcible objections against any attempt to declare the finality of the survey. These objections are briefly as follows :—

(i) The general law of limitation is twelve years for recovering possession of interest in immovable property.

(ii) Section 14 of the Bill would limit the period to one year from the date of the notification under section 13 for the institution of a suit to set aside or modify the survey officer's order.

(iii) It is urged that this is an unnecessary interference with the ordinary law and that it would work hardship in a number of cases—

(*a*) because the notice under section 9 is only served on registered holders.

(*b*) because it is easily conceivable that the real owner is absent and receives no notice, and

(*c*) even if the disputes are settled between the parties the decision is made by an officer who is not qualified by training to adjudicate on questions of title.

"The reasons for my amendment are clearly set forth in these remarks of the Select Committee. It has been pointed out that the ordinary law applicable for establishing title to immovable property should not be curtailed in the manner suggested. Secondly, there are a number of cases in which the registered holder is served with the notice and the real owner is not in a position to take sufficient care of his rights to the property in proper time. Thirdly, there is also the probability that the officer may not be competent to deal with complicated questions For these reasons, I think it absolutely essential that the period prescribed must be extended, and that a period of three years must be considered reasonable in a suit for determining the right to immovable property.

12 noon. "What is the reason that is urged against this? This is what the members of the Select Committee say in dealing with the question :

We feel the weight of these objections, but it must be remembered that it was the intention of the original Act of 1897 to render the operations of the survey party final and it is only owing to the interpretation of that Act by the courts that the original intention has been frustrated. We are therefore restoring to the law the meaning which it was originally intended to convey.

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Clause 14—cont.

" Considering the weight of those objections they thought it necessary to prescribe a shorter period for the purpose of settling this matter. Any anxiety to cut short the period of limitation must not outweigh other important considerations, such as the interests of the landholders who will be affected by the decision. I therefore think that three years are a reasonable limit, and hope that the hon. the Revenue Member will accept it without raising any controversy as in the previous case."

Mr. P. Siva Rao seconded the amendment.

The hon. Khan Bahadur Sir Muhammad Habib-ul lah Sahib Bahadur :—" Sir, I find this to be an attempt to allow three times more than the period permissible under the existing Act for the filing of suits. The existing Act allows only one year, and we have not at all interfered with the period allowed for suits, although, in the original Bill, we had interfered with the period of appeal. We had reduced the period of appeal from three to one month, but the Select Committee raised it to two months and now we have gone back to three. But in the case now before us, no attempt at a change was made by the Government, and the Select Committee, who paid the maximum attention they could to this matter, have come to the conclusion that the one year period is ample. Of course, the hon. the mover tries to point out that there should be sufficient time for the parties to go through the necessary processes before they can file a suit in a court. But I should like to draw the attention of the House to the fact that this is the last stage reached in the whole chain of processes which takes place under this Bill. In the first place, we have got the regular notification issued under clause 6 of the Bill. Then we have clause 9 under which, even in undisputed cases, notices are given to the parties affected. In clause 10, provision is made for giving similar notices to parties who have contested the claim. Clause 11 allows more than ample time for the purpose of preferring appeals. The decision of these appeals will necessarily take sufficiently long time. Then on top of it all, Sir, we have got under clause 13 an obligation to issue a notification finally informing the public that the records of survey have been completed. So, from practically the first stage mentioned in clause 6 down to the last stage referred to in clause 13, several years will intervene, I believe, by the time the party can make up its mind that there is a certain decision of the survey officer which he should challenge in a court of law. One year for this purpose is, I think, quite sufficient; and, I think, the sooner the party tries to challenge the decision of the survey officer in a court of law, the better it will be for him. For, if he is given a longer period, the chances are that the survey party which has been working in that district will have probably left it, some of the records which will be of some use or assistance to the party concerned will have been destroyed or lost, and the party will therefore be left in the unenviable position of having to prove his case without first-hand evidence which he will probably have been able to get if the survey party was still in the district and if the records which had been prepared at the earlier stage were still available.

" Then, we have to take into consideration not only the private individuals but also the local bodies on whose behalf we conduct the surveys. There are municipal towns which are surveyed, and there are unions which are surveyed. In these cases, is it right to ask that, after the local bodies have spent large sums of money for the purpose of securing an accurate survey, and after

Clause 14—cont.

having known what their rights are, they should sit with hands folded for a long time before they can remove a single encroachment though it may only be in front of a dirty hut in a congested street? In view of all these circumstances, we considered that there was no reason whatsoever for increasing the period of one year which is laid down in this Bill and we left that period alone. As I have explained, there are sufficient grounds for having left it severely alone. The Select Committee did not consider that any case had been made out for the purpose of increasing the period to treble that now existing at one jump. I am, therefore, sorry that I cannot see my way to accept the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" The hon. the Revenue Member seems to be of opinion that because a certain number of suits will be pending the decisions of the survey officers the whole party should be held up and that this would mean a large expense. I am afraid I am not able to understand this argument. Hon. Members will notice that clause 13 makes a very radical departure from present practice. It declares for the first time that a record of survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly done so. This provision will seriously affect titles hereafter. This is the most important change that has been made by this Bill, and the arguments for and against have been too fully set forth in the report of the Select Committee for me to repeat them.

" Under the ordinary law, any person has twelve years to decide to go to court and get a decision on a question of title. Now my hon. friend seriously proposes to insert a provision in clause 13 which will seriously affect titles. In view of the great illiteracy of the ryots of this country, I think that it will be perfectly reasonable to fix three years as the period of limitation. Personally I am not at all convinced that three years will be enough, and the amendment in my name suggests six years. But if this amendment is accepted, I shall not move my amendment. Under these circumstances, I am not at all convinced that the hon. Member is right in his contention that the period of three years will seriously inconvenience the parties. My hon. friend is keen on the question of retrenchment and economy and we are quite prepared to support him in that matter, but not on a question that will affect the inherent rights of the ryots. I hope the hon. Member will not speak of retrenchment in the case of survey."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" Mr. President, Sir, the opposition, referred to in their report, during the discussion by the Select Committee was due to my view that the ordinary liberty of the subject should not be interfered with. The ordinary law of limitation is unjust enough. It gives twelve years within which time a person should establish his rights Of course, as a matter of expediency and for the purpose of proper administration we have to enact certain laws of limitation; but there is absolutely no reason why the period of limitation which is ordinarily prescribed for establishing rights over immovable property should be curtailed. I am aware of the fact that in the case of many summary orders passed by civil courts one year is the time within which such orders have to be set aside. There are many cases in which a shorter period of limitation is prescribed even in the matter of immovable property. But the suggestion that is now put forward that it should be three years seems to be reasonable enough and I therefore beg to support the amendment. It is true that in the case of

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Clause 14—cont.

suits to set aside summary orders passed by civil courts a period of one year is prescribed. But as I did point out before and do still point out, the order of the survey officer has not got the same sanction, does not carry the same authority, as that of even a summary order of civil courts. Very often, a man about whose property an order is passed is not to be seen near his property or residence, and very rarely does he understand the significance of the order that is passed by a civil court much less that by a survey officer. In such circumstances, and considering especially the large amount of illiteracy that prevails among the masses, I think it is unnecessary to curtail the liberty of the subject in the matter of the vindication of his rights to immovable property by fixing so short a period as one year. Even about the three years, we do not know whether people will take advantage of the extended period of limitation. I do not believe that the number of suits instituted so far bear any very large percentage to the total number of cases decided by the survey parties. In these circumstances I think the hon. Member will do well to accept the period of three years as the period of limitation."

Mr. P. Siva Rao:—"Sir, I want to support the amendment. The foremost objection of the hon. the Revenue Member to this amendment was that at one bound the period of limitation of one year was sought to be increased. Under the ordinary law, in similar circumstances, the period of limitation for declaratory suits is six years and for the recovery of possession of interest in immovable property twelve years. I would respectfully ask the hon. Member in charge whether he is prepared to reduce the ordinary period of limitation that is prescribed under the ordinary law. That is the standpoint from which the matter has to be looked at.

"There is one other point. The hon. Member in charge said that he would not attempt to introduce any innovation.

"Then, Sir, the reply to that would be that under the present Bill we are for the first time giving finality to the decisions of the survey officers even in ex parte cases. It is all the more reasonable that when finality is attempted to be given to summary decisions of survey officers who, after all, are not supposed to be well conversant with the law and who are not familiar with deciding disputes of the kind, that the period of limitation to be allowed should not be mercilessly and unreasonably cut short to one year.

12-15 p.m.

"Before I close I wish to draw the attention of the hon. Members to the fact that this matter seems to have been keenly fought out in the Select Committee and more than one reason was given by members of that committee as to why the period should not be restricted to one year. It is also stated in the report of the Select Committee that the majority of that committee felt the weight of those reasons and objections. It has very often happened that the real owner did not know the decision of the survey officer, and it is but right that we should allow him a substantial period for getting information and filing a suit. It appears also to have been brought to the notice of the Select Committee that the survey officer, whose decisions are sought to be made final by the present Bill, is not familiar with law and is not qualified to adjudicate on matters like this. More than one reason has been given in the course of this debate also, and for these reasons I think that the period of three years will be a very fair period, and taking into consideration that

Clause 14—cont.

the ordinary law of limitation allows twelve years and six years, to reduce it all at once to one year is simply unreasonable. For these reasons I support the amendment."

Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I also support this amendment. When the Bill was originally introduced in this Council, I gave my reasons at considerable length against the period of one year provided for therein, and pleaded for twelve years. Without revealing the secrets of the Select Committee, I may be permitted to say that I strongly urged this objection, and insisted that the period should be twelve years. As the House will be pleased to see from the report of the Select Committee, there was no other point in the whole of this Bill which was so keenly contested as this provision about the period of one year, and the attention of the Select Committee was engaged on this point more than once. Practically a third of that committee's report is devoted to a consideration of this question, and though ultimately the Select Committee came to the conclusion that the period of one year provided in the Bill, as it was introduced in this Council, was adequate, I still adhere to my original opinion that the period should be twelve years and not one year. But as the amendment now before the House asks for three years and not twelve years, I heartily support this amendment."

Mr. R. SRINIVASA AYYANGAR :—" Mr. President, Sir, I beg leave to support the amendment before the House. The period of one year stated in clause 14 is too short, and, I fear, is not likely to meet the requirements of the case. Lawyer members of this House as well as lay members may be very well aware of the fact that there is an article in the Limitation Act, known as the residuary article, namely, article 120, which fixes a period of six years for suits in which people pray for a bare declaration. Under ordinary circumstances I would welcome a proposal to substitute six years for one year. But as it is by way of compromise that a period of three years has been suggested by the amendment, I think there should be absolutely no reason why that period should not be accepted by the House. If I understood the hon. the Revenue Member aright, he pointed out one or two difficulties that stood in the way of his accepting this amendment. What he said was this : 'If we raise the period from one to three years, we shall be overlooking the possibility of the survey officers leaving the station with all the records ; and we shall also be overlooking the possibility of the party concerned being placed at a disadvantage by reason of the officers leaving the place with the records.' I should like to know from him as to whether the same contingency will not also arise if one year is fixed as the limit, for it is quite possible and conceivable that the survey parties may finish their operations and leave the stations within one year. Therefore viewing it from the standpoint of inconvenience or the balance of convenience, I do not think there is much force in the arguments advanced by the hon. the Revenue Member. I, therefore, venture to submit with confidence that three years would meet the requirements of the case."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I do not know if the hon. the Revenue Member will persist in opposing this reasonable amendment. But since he has not expressly given his assent to it, I am bound to make a few remarks in support of this amendment. He has told us in the course of his reply that so far as this provision of one year is concerned, no departure

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Clause 14—cont.

has been made and no justification can be made for increasing that period to three years. May I point out that we cannot draw the analogy of the existing Act in so far as the present Bill has created a departure by declaring that the decision of the survey officers is to be conclusive unless challenged in a civil court? That is the very object with which this Bill, as stated in the original Statement of Objects and Reasons, has been introduced. On account of the decision of the Madras High Court in S.A. No. 22 of 1915 it was found necessary to make the officer's order conclusive subject to reversal by the civil court. When a departure has thus been made from the original Act, we cannot draw any analogy from the period of one year found in the original Act. Therefore the question still remains whether in cases where it is necessary to challenge the order of the survey officer the period of one year is insufficient. Well, Sir, other hon. Members who have spoken on this motion have already expressed the opinion that the period of three years suggested in my amendment is too modest a figure, Mr. Krishnan Nayar has stated that it should be twelve years and Mr. Ramachandra Rao expressed his opinion that it should be six years. Such being the trend of opinion in this House, I do not think there need be any objection whatever to this modest amendment. With these remarks, Sir, I press the amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, it has been said that the ordinary period of twelve years is being curtailed and therefore it is all the more necessary why the House should accept three instead of one year. But if the ordinary period of limitation is going to apply, I do not at all see why this piece of legislation should have entered this House. I hope hon. Members are aware that this is merely an application of article 14 in the schedule to the Law of Limitation. In that article a period of one year only has been prescribed against all orders passed by a Government officer. There was some doubt expressed by the Madras High Court in a decision, passed in 1915, as to whether the decision of a survey officer could be construed as an order when an individual failed to appear and contest the survey made by him. I have already pointed out in my opening speech on this Bill that the Select Committee, which sat on the Bill of 1897, which is now law, definitely made a statement that they had so framed that Bill as to include within its purview all the cases of surveys, whether contested or non-contested. That view of the Select Committee prevailed until it was disturbed by the judicial pronouncement of the Madras High Court in 1915. The intention of the present Act, therefore, is found there; and it was stated by the then Select Committee that the intention of the present Act was that the period of one year for the purpose of contesting the decision of a survey officer, whether it was passed in a contested case or a non-contested case, should be made equally applicable. This was the impression under which we and the parties as well continued till the year 1915. But after the decision of the Madras High Court—of course we have to bow down to the decision of the High Court—we merely made an attempt to explain our position better in keeping with the intentions of the existing Act and the expressed intentions of the Select Committee that sat on the Bill of 1897. It is nothing new we have sought to introduce in the present Bill, and there is no anomaly that we wish to introduce. We do not wish to curb or curtail the powers of the ordinary individual or

to withdraw the liberties of the public as has been pointed out. We merely wish to translate in clearer language the intentions of the existing legislation, intentions which have been forcibly expressed by the then Select Committee. There was therefore no reason for us to have allowed a longer period than one year in the present Bill. For, if I may repeat, we were not disturbing the rights of individuals which existed under the old Act, and we were not withdrawing at all any liberties which they possessed. We merely wanted to make legislation clearer so as to avoid the doubts expressed by the Madras High Court as to whether the intentions of the Select Committee could be said to have been fulfilled by the phraseology employed in the section. We have simply made the phraseology clearer. We never, at any moment, had the slightest intention of throwing outside the pale of this legislation individuals who have not contested the action of the survey officer. We have all along included them, and we have said so expressly. When we passed the legislation of 1897 we acted on that impression and it was only in 1915 that we were told that the phraseology of the enactment did not clearly convey that meaning, and we are now trying to make it clearer. There is therefore no reason to give a longer period than one year. When it is conceded that we are not at all disturbing the existing Act, I hardly see any justification for extending the period. If once we accept to extend the period, I do not know where we shall stop. We do not know if three years are going to be regarded as sufficient. From the standpoint of one hon. Member the period should be twelve years; it should be six years from the standpoint of another; and I hardly see where we can stop. What is the justification for doing so? I heard hardly any arguments for such justification except that we are trying to bring decisions under clause 9 also under clause 14 of the Bill.

"I have been warned already by my hon. friend opposite, Mr. Ramachandra Rao, that I should not at all allow the question of expenditure to interfere with the execution of the various processes under this Bill; 'no matter what the expenditure may be, however prohibitive it may be, let all facilities be given to the landholders under the purview of this Bill.' Well, Sir, I am quite willing. . . ." 12-30 p.m.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"May I say a word, Sir, by way of personal explanation? My objection was against trotting out 'retrenchment' on every occasion that reasonable proposals, such as this, are made. I never said that retrenchment should not be carried, nor did I say that reasonable expenses should not be incurred by the ryot. What I submitted was that the hon. the Revenue Member should not use the argument of retrenchment in legislation and in such reasonable proposals as affect the rights of the property and will go into permanent records."

The hon. the PRESIDENT:—"So far as I can remember, the hon. Member objected to the very word 'retrenchment'. He did not want to hear that word any further."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Very well, Sir. As you remarked I have not used the word 'retrenchment' at all in connexion with clause 14. I shall merely say that to keep the door of litigation open for a much longer period than is permissible in this Bill would be very vexatious from the standpoint of

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Clause 14—cont.

the opposite party. The survey officer goes and decides the boundaries between two private individuals. Now if *A*, who is going to contest the legality of the order of the survey officer, is to be given the liberty to keep absolutely quiet for three years, his neighbour will all the time be in fear that any day within these three years there may be a suit filed by *A* contesting the correctness of the boundary that has been laid down. So in the interest of everybody concerned, no matter what the expenditure, it is absolutely essential that a decision on the correctness of the survey boundary had better be obtained as soon as possible. I have already stated, Sir, that I regard three years as too long a period, and I still hold that opinion. Let me not be understood as in any way trying to take away the liberties of the public or trying to thwart people from asserting their rights. On the other hand, I am as eager as any hon. Member of this House to try and help everybody as much as I possibly can, and in view of that fact, I think I can have no objection, if the House is so minded, if the period is raised from one year to three years."

A poll was then taken with the following result:—

Ayes.

1. Mr. K. Adinarayana Reddi.
2. S. R. Y. Ankinedu Prasad Bahadur.
3. Mr. M. Appalanarasayya Naydu.
4. ,, R. Appaswami Naydu.
5. Rao Bahadur P. C. Ethirajulu Naydu.
6. Mr. W. Vijayaraghava Mudaliyar.
7. Rao Bahadur K. Gopalakrishnayya.
8. Mr. B. Muniswami Naydu.
9. ,, J. Kuppuswami.
10. ,, A. T. Muttukumaraswami Chettiyar.
11. ,, M. Narayanaswami Reddi.
12. ,, V. P. Pakkiriswami Pillai.
13. ,, C. Ponnuswami Naydu.
14. ,, P. T. Rajan.
15. Rao Bahadur A. Ramayya Punja.
16. Mr. K. Sarabha Reddi.
17. ,, T. Somasundara Mudaliyar.
18. Diwan Bahadur K. Suryanarayanamurti Naydu.
19. Mr. A. Tangavelu Nayagar.
20. ,, C. Venkata Ranga Reddi.
21. ,, P. Venkatasubba Rao.
22. Diwan Bahadur P. Kesava Pillai.
23. ,, M. Ramachandra Rao Pantulu.
24. ,, L. A. Govindaraghava Ayyar.
25. ,, M. Krishnan Nayar.
26. Rao Bahadur A. S. Krishna Rao Pantulu.
27. Mr. P. Siva Rao.
28. ,, C. V. Venkataramana Ayyangar.
29. Diwan Bahadur Sir T. Desika Acharyar.
30. Rao Bahadur C. V. S. Narasimha Raju.
31. ,, Dr. C. B. Rama Rao.
32. Mr. A. Ranganatha Mudaliyar.
33. Sriman Sasibhushan Rath Mahasayo.
34. Diwan Bahadur D. Seshagiri Rao Pantulu.
35. Mr. T. Sivasankaram Pillai.
36. ,, R. Srinivasa Ayyangar.
37. ,, M. Suryanarayana Pantulu.
38. ,, S. Arpudaswami Udayar.
39. The Raja of Ramnad.
40. Sri Meka V. Apparao Bahadur.
41. Mr. K. Prabhakaran Tampan.
42. Hamid Sultan Marakkayar Sahib Bahadur.
43. Mr. Saiyid Ibrahim Ravuttar.
44. Ahmad Miran Sahib Bahadur.
45. Muhammad Abdur Rahim Khan Sahib Bahadur.
46. Khan Sahib Munshi Muhammad Abdur Rahman Sahib.
47. Saiyid Diwan Abdul-Razaak Sahib Bahadur.
48. Khan Bahadur Muhammad Usman Sahib Bahadur.
49. Mr. G. Vandanam.

Noes.

1. The hon. Sir Charles Todhunter.
2. ,, Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur.
3. ,, Mr. K. Srinivasa Ayyangar.
4. ,, the Raja of Panagal.
5. Mr. F. J. Richards.
6. Mr. E. F. Thomas.
7. ,, T. C. Tangavelu Pillai.
8. ,, A. Ramaswami Mudaliyar.
9. Diwan Bahadur T. N. Sivagnanam Pillai.
10. Mr. S. Somasundaram Pillai.
11. Rev. W. Meston.

The amendment was carried, 49 voting *for* and 11 *against* it.

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Clause 14—cont.

The following amendments were not then moved :—

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—

34. *For the words* ' *one year* ' *in line* 6, *substitute the words* ' *six years* '.

Mr. M. SURYANARAYANA :—

35. *For the words* ' *notification under section* 13 ' *substitute the words* ' *service of notice under section* 10 *or* 11 '.

Mr. M. SURYANARAYANA :—

36. (i) *Number the first paragraph as sub-clause* (1) *and the second parayraph as sub-clause* (2).

New sub-clause.

(ii) *Add the following as sub-clause* (3) :—

' *Subject to the final result of such suit, the record of the survey shall be conclusive as between the parties to the dispute under section* 10 *or* 11 *above, and those claiming under or through them* '.

Mr. K. PRABHAKARAN TAMPAN :—

37. *Add the following as a proviso* :—

' *Provided that nothing contained in sections* 13 *and* 14 *shall preclude the operation of sections* 6 *and* 9 *of Act III of* 1896, *Malabar Land Registration Act.*'

Clause 14, as amended, was then put, passed and added to the Bill.

Clause 15.

Rai Bahadur T. M. Narasimhacharlu, against whose name the first amendment under this clause stood, not being in his place when called out by the President, Mr. P. Siva Rao sought the permission of the House to move the amendment, which was accordingly given.

Mr. P. SIVA RAO :—" Sir, the amendment I move is this :

38. *After the word* ' *holder* ' *in line* 20, *insert the words* ' *owner or occupier* '

" The present clause reads thus :

Subject to such conditions as may be prescribed in this behalf, every registered holder of Government land shall be bound to maintain, renew and repair, . .

" and so on. The proposed amendment seeks to *insert the words* ' *owner or occupier* ' *before the words* '*registered holder*', and so with this amendment the clause will read thus :

Subject to such conditions as may be prescribed in this behalf, every registered holder, owner or occupier of Government land shall be bound to maintain, renew and repair . . . etc.

" According to the existing clause in the Bill, the liability is on the registered holder and he alone will be bound to maintain, renew or repair the survey marks. Then, it may be that the registered holder of a Government land may happen to be somebody who does not own the land. It may be said that the registered holder is a person in whose name the land is registered. But such a man may have ceased to be the real owner of the land long ago. As a matter of fact, in such a case it is the present owner

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Clause 15—cont.

that ought to be made really liable for the maintenance, repairs and renewal of the survey marks. The registered holder may have died long ago. But yet, this section declares that the registered holder alone is responsible for this liability. I do not object to the registered holder being made liable; but the difficulty arises when the registered holder ceases to be the real owner of the land. Unless this clause declares also the owner or occupier to be responsible, there will be no way of recovering the charges except from some registered holder. Sir, it may so happen that the registered holder of Government land may be dead. Under such circumstances, the Government may have to look up to the owner or occupier for the collection of these charges under the general law. As the owner or occupier is generally the man who is actually interested in the land, he is really responsible for maintaining, renewing and repairing the survey marks. The amendment proposed is most unexceptionable, and I think it will at once commend itself to the hon. the Revenue Member.

"As I said at the outset, I have no objection to the Government turning to the registered holder; but I want the owner also to be added just as a safeguard against the registered holder ceasing to be the owner, so that the charges which should legitimately fall on the shoulders of the owner may not be collected from one who was once a registered holder but had subsequently ceased to be the owner of the land or is dead."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I second the amendment."

12-45 p.m.

The hon. Sir CHARLES TODHUNTER:—"Sir, I should be glad if the hon. Member would inform the House supposing this amendment is accepted, to which of the three persons, the word 'his' in line 24 would apply."

Mr. P. SIVA RAO:—"It would apply to the occupier".

The hon. Sir CHARLES TODHUNTER:—"Am I to understand, Sir, that in the event of notice being given to the occupier and no action taken upon it, the cost of the survey may be recovered from the registered holder, although he has had no notice?"

Mr. P. SIVA RAO:—"It is quite open to the Government to make either the registered holder or the owner responsible for it. I think sufficient provision should be made to safeguard the interests of the registered landholder when he does not happen to be the owner of the land."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, while the hon. mover of this amendment is trying to solve the difficulties of the registered holder, he is placing the Government in a worse difficulty. The hon. Member pointedly mentions that there may be cases in which a registered holder is no more the owner of the land; he may have parted with his land to *A*, *B* or *C* and that *A*, *B* or *C* may not have taken the trouble of intimating to the Government that he has become the purchaser of the land and got his name registered as the holder thereof. If he does not intimate this fact, the name of the original holder continues in the Government records. Instead of asking the vendor or the vendee to intimate to the Government of the transaction between them, this amendment imposes the obligation on the Government not merely to be satisfied with the correctness of their registers, but in each case to start a fresh inquiry as to

Clause 15—cont.

whether the registered holder whose name is entered in their registers is really the owner of the property. In each case the Government will have to hold separate inquiries and for that purpose they will have to issue notice to the registered holder if he continues to be the owner of the property, to the owner if the ownership has passed to somebody else, and lastly to the occupier if either the registered holder or the real owner cannot be traced. These are the complications involved in the amendment which probably the hon. mover has never anticipated. All that the Government are maintaining is a list of registered holders. We leave it to the private individuals, who by their own individual transactions pass ownership from one to an other, to make application in due time to the local authorities requesting that their own names be brought on record in lieu of the original holders. It may be that the names of individuals who are not the real owners find place in the list of registered holders. But it is none of the business of the Government to alter the names. It is the duty of the parties who have brought about the transaction to make application for the alteration of the register. When the names of all these three persons are embodied in the Bill, just consider what will be the position of the officer who issues notices. In respect of every notice, the officer has first of all to determine to whom the notice has to be issued. Should it go to the registered holder, or the owner or the occupier? In each case he has to conduct an independent inquiry and decide the person on whom he has to serve notice. Does the hon. mover of this amendment contemplate the trouble, the expense and the delay that will be involved? Does the hon. mover think that it is the duty of the Government to go from door to door and ascertain what transactions have been carried on between individuals? Why should the Government be asked to undertake this onerous task when the individuals themselves have not chosen to intimate to the Government that some transactions have taken place between themselves whereby the property entered in the Government registers against one name has been transferred to another name? If the Government is to be reduced to that position, I for one can hardly understand how any enactment can be worked successfully."

Mr. B. MUNISWAMI NAYUDU :—" Sir, I have great pleasure in supporting the amendment that is now before the House. I wish to bring to the notice of the Council that in the clause obligation is cast on the registered holder to maintain or repair the survey marks. If for any reason the registered holder is not the owner of the land, and if the cost for the maintenance of survey marks is recovered from the registered holder, provision should be made in the enactment to enable him to sue for contribution from the person who may be the ultimate owner. In the Government registers the name of a registered holder finds a place. If we take for instance a joint Hindu family, the name of the original owner will be entered in the Government registers. Afterwards the property may have been divided and it may have come to the possession of a number of his brothers or co-partners. In such a case, if the Government issues notice to the registered holder and recovers the cost for the maintenance of survey marks from him, he will not be able to sue for contribution of costs from the other owners. It is absolutely necessary that the amendment should be accepted in order to make owners and occupiers also liable. If this is not done the person in whose name the property is registered in the Government records will suffer, because when

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he calls upon the other owners to contribute their portion, they will say: 'the property stands in your name in the Government registers, you are bound to pay, not we.' In order to obviate this difficulty this amendment is necessary. The object of this amendment is not to impose upon the Government the task of finding out the real owner and then collecting the amount due to it. In passing this clause we should see that a person is not penalized merely because he happens to be one whose name is found in the register maintained by the Government. It is with this object that the amendment is moved. The Government will not be embarrassed in proceeding against the owner or the occupier; it can also proceed against the registered holder if it so pleases and recover the amount from him. If the amendment is accepted, it will be only providing additional security for the person from whom the amount is collected and will pave the way for avoiding litigation for contribution. It is a well known fact that we are all anxious to stop unnecessary litigation. If the Council thinks that merely by reason of being a registered holder, he alone ought not to be made liable though it may be that another man is the real owner of the property, then it is also the duty of the Council to provide some safeguards for the registered holder in order that he may recover the amount he is called on to pay from the person who is ultimately bound to pay. For these reasons I support the amendment now before the House."

Mr. T. SIVASANKARAM PILLAI:—" I wish to bring one point to the notice of the Council. What happens in villages generally is that when a registered holder dies, it takes a very long time for his successors to be brought on the revenue register. The interval is sometimes one year or even two years. There is no obligation on the part of the successor in title to apply to the Government within a fixed time to have the names recorded in the revenue registers. When the survey is made it has to be determined who the actual holder is. When the registered holder is in the other world, I do not know from whom the money has to be recovered. From this aspect of the question, I think the amendment is quite essential."

Rao Bahadur C. V. S. NARASIMHA RAJU:—" I think there is no difference of opinion as to the reasonableness of giving a right of recovery from the real person liable in case the money is recovered by the Government from the registered holder when he does not happen to be the real owner. If the present amendment is carried, I do not think it clears the doubt. The real difficulty is for the recovery of money. I think this difficulty will be conveniently solved if we add the words '*from the registered holder, or the owner or the occupier in the prescribed manner*' at the end of line 29."

The hon. Mr. K. SRINIVASA AYYANGAR:—" I understand the object of the amendment is to make all of them liable so that there may be no difficulty in levying contribution from the person who is ultimately bound to pay. If that is the object, I beg to suggest a better form of wording. It is this:

After the word 'land' in line 20, *insert the words 'as well as the owner or occupier if he is not the registered holder.'*

" In this way the obligation will be imposed upon all the persons. So far as the Government is concerned they will be entitled to recover the amount from any one of them, but the joint liability will remain. If the

Clause 15—cont.

question of contribution arises, then naturally the sum will have to be paid by the person who is ultimately liable to pay and that will be really the owner. If these words are added, I believe, it will be clearer and the object of the mover of the present amendment will be realized.

"In conformity with the above suggestion, a consequential amendment will be necessary later on, viz., with regard to the provision for the recovery of the arrears under the Revenue Recovery Act."

1 p.m.

Diwan Bahadur M. Ramachandra Rao Pantulu :—"May I know what the procedure is under the Revenue Recovery Act?"

The hon. Mr. K. Srinivasa Ayyangar :—"Under that procedure it will be recovered from anybody who is liable. If my hon. friend refers to the provisions under the Revenue Recovery Act he will understand it."

Diwan Bahadur M. Ramachandra Rao Pantulu :—"The hon. the Law Member merely says that the arrears will be recovered under the Revenue Recovery Act. He does not say what the provisions under that Act are."

The hon. Mr. K. Srinivasa Ayyangar :—"I presume that hon. Members know that there is a procedure under the Revenue Recovery Act for the purpose of recovering arrears of land revenue. That is the provision which is going to be applied here."

Diwan Bahadur M. Ramachandra Rao Pantulu :—"I think the hon. the Law Member is bringing considerable heat unnecessarily, quite unnecessarily, into the discussion....."

The hon. Mr. K. Srinivasa Ayyangar :—"I am sorry I am not at all bringing any heat. I merely answered my hon. friend opposite when he asked me what the procedure under the Revenue Recovery Act was."

Rao Bahadur A. S. Krishna Rao Pantulu :—"Sir, may I know what the amendment is, who moved it and who seconded it?"

The Deputy President :—"There is only a suggestion from the hon. the Law Member. I think Mr. Siva Rao may have it in writing and see if he can accept it."

The hon. Mr. K. Srinivasa Ayyangar :—"Yes, Sir. I merely made a suggestion for the improvement of the language in order to make it clear and to carry out the intentions of the mover of this amendment. If he adopts it, I daresay my hon. colleague will consider it."

Mr. P. Siva Rao :—"Sir, as one who has moved an amendment, I cannot move another. I have no objection to accept the wording of the hon. the Law Member, if I am allowed to do so."

Rao Bahadur K. Gopalakrishnayya :—"Sir, I move that the amendment suggested by the hon. the Law Member to the amendment proposed by Mr. Siva Rao be accepted."

The Deputy President :—"Will the hon. Member, Mr. Gopalakrishnayya, kindly put it in writing and move it as an amendment?"

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Mr. A. RANGANATHA MUDALIYAR :—" May I say, Sir, that as the hon. the Law Member has suggested an amendment, it is his function to reduce it to writing and place it before the House, or the hon. the Revenue Member, in consultation with the hon. the Law Member, should put whatever amendment he has before the House. If instead of that between two hon. Members we are to be tossed to and fro, I do not think it is consistent with the dignity of the House. If there is any amendment, they should place it before the House. Now, Sir, we are simply being treated to a scene which is not very edifying."

The hon. Sir CHARLES TODHUNTER :—" I think, Sir, the hon. Member who has just spoken has misunderstood the position. The position, as I understand it, is this. An amendment has been moved which, owing to an unfortunate omission, leaves the clause unintelligible. My hon. colleague is endeavouring to assist the mover of the amendment by substituting another wording which will carry out his intention. This is not tossing the Members to and fro. The Government are endeavouring to assist the hon. Member who moved the amendment. I very much regret that it has been misunderstood."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Mr. President, the position seems to be this : Clause 15 throws the responsibility for the maintenance, renewal and repair of survey marks on the registered holder. This is in regard to ryotwari lands. So far as the registered holder is concerned, we have got accounts. The Government can look to him for land revenue and his liability rests on well recognized principles of land revenue administration in this Presidency."

The DEPUTY PRESIDENT :—" I think the hon. Member is going to accept one of the amendments."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" There is no amendment for acceptance. I am explaining what I feel on the amendment moved by Mr. Siva Rao. I shall examine also the suggestion made by the hon. the Law Member, but I am not prepared to incorporate it in this amendment. I shall point out my difficulties in accepting it. That is the reason why I wish to say at this stage what I feel on this matter."

The hon. Sir CHARLES TODHUNTER :—" Sir, may I know what the attitude of the hon. Member is to the amendment to the amendment ? Is he opposing it ? "

The DEPUTY PRESIDENT :—" Will the House permit the hon. Member Mr. Gopalakrishnayya to move his amendment to this amendment of Mr. Siva Rao ? "

Rao Bahadur K. GOPALAKRISHNAYYA :—" Sir, I beg to move the following amendment :—

Instead of the words 'owner or occupier of the land' appearing in the amendment of Mr. Siva Rao, insert the words 'every registered holder of Government land, as well as the owner or the occupier if he is not the registered holder.'

" These words may be inserted."

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Mr. M. NARAYANASWAMI REDDI :—" I second it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" There are two amendments before this House, one is that of Mr. Siva Rao and the other that of Mr. Gopalakrishnayya which is a further amendment to that of Mr. Siva Rao. The position is this : We know that, so far as the registered holder is concerned, there is a record as to who the registered holder is in the accounts of each village. His liability for land revenue is well recognized and known and if any person wishes to evade that liability by ceasing to be the owner the remedy is entirely in his own hands. Therefore the question of hardship arising by the owner (registered holder) being made to pay for the survey charges is one which the registered holder himself may remove by effecting the transfer of the holding from the occupier to the owner. Now as regards the word 'occupier' I do not know what my hon. friend means. Assuming that the land is leased for three years and if this survey is conducted during that period it is the object of my hon. friend that we should have only one person to look to. But we are now going to enable the Government to look to three distinct individuals and produce complications by allowing the Government to recover it from the owner or the occupier or the registered holder. I am afraid, Sir, the matter will be distinctly worse in the amendment of Mr. Siva Rao and more so in that of Mr. Gopalakrishnayya. Therefore, as I said, it is true that, in some cases land registry is not effected soon. But it is certainly open to a person who is the owner, not the real owner, to transfer his liability. Under these circumstances, I am afraid, Sir, there is some misconception as regards this matter. I think the best thing is to look only to one person and that person is the registered holder. And if the registered holder is not satisfied with his liability, he has the remedy in his own hands. He can apply for commutation of claims. For these reasons I would request my hon. friends not to complicate matters, but leave the clause as it is."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I beg to oppose the amendment as well as the amendment to the amendment. My. hon. friend Mr. Ramachandra Rao has given some reasons. I wish to supplement them. My submission is that the suggestion which has been made by the hon. the Law Member which has now come as an amendment to the amendment of Mr. Siva Rao is really a reproduction in perhaps somewhat fuller language of what is contained in the original amendment. I think that this amendment to the amendment is as obnoxious as the original amendment. The registered holder must either be the owner or the occupier or, if there is any other person than the registered holder who is the owner or the occupier, he must have become so only, except in cases wherein there is a sale of the property and somebody else has become the owner by an involuntary alienation, with the permission of the owner. In case of an involuntary alienation by execution sale or court sale, it is perfectly competent for the registered holder to insist upon the person, who has become the owner of the property, to be made the holder. In the case of other persons it is only a question of agreement between the holder and the other persons who become the owners or the occupiers. How exactly these charges are to be met and what should be the initial liability of the holder to the Government should be worked out in the terms of the contract that might have been entered into

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Clause 15—cont.

between the holder on the one hand and the owner or the occupier on the other. So that leaving the position as it is under the clause will not work any hardship to any person; if on the other hand you make three persons liable for one act, leaving it to Government to proceed against whomsoever they please, it will mean that it will be left to the sweet will and pleasure of the revenue authorities as to who shall be proceeded against in particular cases.

1-15 p.m.

"And, as a matter of fact, it is not apprehended that there will be any difficulty for the Government to realize what might be due to them, if you leave the original provision as it stands. If it be stated for instance that there is an obligation which is cast upon the owner or the occupier which must be given effect to in clause 15, that again is not in any way provided for especially by this amendment except that you add a burden to the owner and the occupier. My point is this. It is perfectly competent for the registered holder of the land to enter into an agreement with the owner or the occupier as to what he should do, and in other cases, where another person becomes the owner otherwise than by the voluntary act of the holder, it is equally competent for him to have his liability transferred to another's shoulders as soon as he can. Here, as the clause stands as amended, you are simply enlarging the rights of the Government as against the holder, occupier or owner without giving any relief to the holder of the land. And it is capable of being worked so as to produce practical hardship. In these circumstances it appears to me that the amendment and the amendment to the amendment should be negatived. I am told that there would be a consequential amendment to omit the words 'in default of his doing so'. That stands to reason because we do not know to whom 'his' refers. We have also the expressions: 'and recover such costs as an arrear of land revenue'. It is left to the Government to decide from whom they shall recover. They will have nothing to do with the initial responsibilities of the holder, occupier or owner with reference to the repairing of the survey and boundary marks. It may be, as a matter of fact in a particular case, it is the registered holder that is really responsible for the maintenance of the boundary marks, but it is left to the Government to recover it from the occupier. It may be, for instance, that the repair of the survey mark was undertaken on the last day of the term of a lessee; notwithstanding that fact, it is competent, according to this amendment, for the Government to recover the amount from the lessee. I think therefore, Sir, that unless the hardship that is possible of being created by accepting this amendment is sought to be obviated by further rules, the amendment is much worse than the original proposition itself."

Rao Bahadur K. GOPALAKRISHNAYYA:—"My hon. friends, Mr. Govindaraghava Ayyar and Mr. Ramachandra Rao, dealt with the amendment from one point of view, that is, the Government point of view. The Government, they are afraid, would have greater facilities in applying this clause for recovering the amount either from the registered holder or the owner or the occupier when any of these did not happen to be the registered holder. No doubt there may be such a facility for the Government. But we shall have to look at the question from another point of view. We shall have to see whether the occupier, who is not the registered holder

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and who happens to be in possession of the land, is bound by any obligation to keep in order the survey marks. He may, in collusion with the neighbouring landowner, disturb the survey mark. As such it is necessary that either the occupier or the owner who happens to be the immediate purchaser of the land from the registered holder should be under an obligation to keep the survey marks in order. It is with the object of creating such a statutory liability to maintain the survey marks on the occupier and the owner of the land who is not a registered holder that this amendment is brought forward. No doubt there may be greater facilities thrown open to the Government to recover the amount from the occupier or the owner or the registered holder. But certainly it does not stand in the way of providing greater facilities to the registered holders of lands. In that view, the amendment is necessary."

The amendment of Mr. P. Siva Rao, as further amended by Mr. Gopalakrishnayya, was then put and a poll was taken with the following result :—

Ayes.

1. S. R. Y. Ankinedu Prasad Bahadur.
2. Mr. M. Appalanarasayya Nayudu.
3. ,, R. Appaswami Nayudu.
4. Rao Bahadur P. C. Ethirajulu Nayudu.
5. ,, T. Balaji Rao Nayudu.
6. Mr. C. Ramalinga Reddi.
7. ,, W. Vijayaraghava Mudaliyar.
8. Rao Bahadur K. Gopalakrishnayya.
9. Mr. B. Muniswami Nayudu.
10. ,, A. T. Muttukumaraswami Chettiyar.
11. ,, M. Narayanaswami Reddi.
12. ,, V. P. Pakkiriswami Pillai.
13. Mr. K. Sarabha Reddi.
14. ,, K. Sitarama Reddi.
15. ,, P. Siva Rao.
16. ,, S. Muttumanikkachari.
17. ,, T. Sivasankaram Pillai.
18. Sri Meka V. Apparao Bahadur.
19. The Zamindar of Mandasa.
20. Mr. K. Prabhakaran Tampan.
21. ,, A. P. I. Saiyid Ibrahim Rawuttar.
22. Khan Bahadur Muhammad Usman Sahib Bahadur.

Noes.

1. Diwan Bahadur K. Suryanarayanamurti Nayudu.
2. ,, M. Ramachandra Rao Pantulu.
3. ,, L. A. Govindaraghava Ayyar.
4. ,, M. Krishnan Nayar.
5. Mr. K. Sadasiva Bhat.
6. Diwan Bahadur D. Seshagiri Rao Pantulu.
7. Mr. S. Arpudaswami Udayar.
8. Rai Sahib E. C. M. Mascarenhas.
9. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur.

Neutral.

1. The hon. Sir Charles Todhunter.
2. ,, Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur.
3. ,, Mr. K. Srinivasa Ayyangar.
4. ,, the Raja of Panagal.
5. ,, Rao Bahadur A. P. Patro.
6. ,, Mr A. R. Knapp.
7. Mr. C. P. Ramaswami Ayyar.
8. ,, T. C. Tangavelu Pillai.
9. ,, A. Ramaswami Mudaliyar.
10. ,, K. Adinarayana Reddi.
11. Rao Sahib S. Ellappa Chettiyar.
12. Diwan Bahadur T. N. Sivagnanam Pillai.
13. Mr. S. Somasundaram Pillai.
14. Dr. P. Subbarayan.
15. Mr. A. Tangavelu Nayagar.
16. ,, V. C. Vellingiri Goundar.
17. Mr. C. Venkata Ranga Reddi.
18. Rao Bahadur A. S. Krishna Rao Pantulu.
19. Mr. C. V. Venkataramana Ayyangar.
20. Rao Bahadur C. V. S. Narasimha Raju.
21. Dr. C. B. Rama Rao.
22. Mr. A. Ranganatha Mudaliyar.
23. Sriman Sasibhushan Rath Mahasayo.
24. Mr. R. Srinivasa Ayyangar.
25. ,, T. C. Srinivasa Ayyangar.
26. ,, M. Suryanarayana.
27. ,, M. Ratnaswami.
28. The Raja of Ramnad.
29. Rev. W. Meston.
30. Khan Sahib Muhammad Atdur Rahim Sahib.
31. Khan Sahib Munshi Muhammad Abdur Rahman Sahib.

The amendment was carried : *Ayes* 22, *noes* 9, *neutral* 31.

At this stage the House rose for lunch.

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Clause 15—cont.

The Council re-assembled after lunch at 2-30 p.m. with the Deputy President in the Chair.

Mr. C. P. RAMASWAMI AYYAR :—"Consequent upon the amendment accepted by the House, this morning, I move that the words *of his doing so* in line 24 be *omitted*."

The hon. Mr. K. SRINIVASA AYYANGAR :—"I second it."

The amendment was put to the House and carried.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, the amendment which may be fitted into the one proposed by the Advocate-General is that the words *of his doing so* in lines 23 and 24 be *omitted* and the words *within a prescribed period* be *inserted*, and that the words *from the registered holder* be *added* after the words 'such cost' in line 29. My amendment, the House will be aware, is necessitated by the acceptance of the previous amendment moved by Mr. Gopalakrishnayya. According to the Bill originally introduced in this Council, as also that accepted by the Select Committee, the only person from whom this arrear is proposed to be recovered is the registered holder. But it has been made clear that the registered holder may reside at a distance and that the occupant will not probably look after the maintenance of the survey marks. The occupier or the owner has also been brought in along with him. But the amendment that has been passed has the effect of creating a declaration of right regarding the responsibility of the persons who are to maintain the survey marks. It is only the subsequent clauses which have not yet been touched that deal with the liability of the persons to pay the cost of repairs and the manner of recovering them when a contingency arises. While dealing with this, we ought to do nothing which will result in our making the position worse than what it is now. At present the Government are satisfied that they have the recovery of this amount as an arrear of land revenue from the registered landholder. When we say that in default of the survey marks being retained certain contingencies will arise. I think we must prescribe some time-limit. Therefore it is that I propose the insertion of the words 'within a prescribed period'. That appears to be absolutely necessary to carry out our object."

Mr. K. PRABHAKARAN TAMPAN :—"I second the amendment, Sir. There is an amendment similar to this and my hon. friend, Mr. Krishna Rao, has only anticipated me."

Mr. C. P. RAMASWAMI AYYAR :—"Sir, I would only invite the attention of the House to the consequences of our accepting this amendment. I cannot see how this will fit in with the amendment that has been accepted last by this House. It seems to me, Sir, that the first portion of the clause, as read with the amendment carried out this morning, imposes on the owner and the occupier, as well as on the registered holder, the responsibility of maintaining the survey marks, whereas the recovery of the arrear is only from the registered holder."

Diwan Bahadur M. KRISHNAN NAYAR :—"I was also going to say the same thing. The result of this amendment, after the acceptance of the previous amendment, is only to make the whole thing inconsistent. As the clause originally stood there was only one person the Government could look to so far as the liability of this cost was concerned ; and it was laid down

Clause 15—cont.

as the duty of the registered holder to maintain the survey mark. Now, as a result of the amendment accepted this morning, the liability for maintaining the stones has been cast upon the owner or the occupant, if the registered holder is not the owner or the occupant. The result of the amendment proposed by my friend, Mr. Krishna Rao, will be that the obligation of maintaining the stones will fall on all these three persons, whereas the Government can recover the arrears only from one of them. This position, I submit, with all deference to my friend, Mr. Krishna Rao, is quite inconsistent. Rightly or wrongly, we have accepted the previous amendment and we cannot now go back upon what we have done. Even with reference to that amendment, the House will remember, there was a large number of neutrals, about 31. Therefore, if this Council is to accept the present amendment, it seems to me, Sir, that it will bring credit neither to the persons that drafted it nor to the House that accepts it. Of course, it is not my intention that the Government should have the power of recovering the amount from all the three persons: surely the Government will collect the cost from only one of them; but let them have the power of choosing that one person from among the three upon whom the responsibility of maintaining the stones falls."

2-45 p.m.

Rao Bahadur C. V. S. NARASIMHA RAJU:—"Mr. President, the clause consists of four separate items. The first portion deals with the obligations of the registered holder, or the owner or the occupier. The second portion says that in default of their carrying out their obligations, the Government officers should carry them out. The third portion deals with the apportionment of costs, and the fourth portion with the recovery thereof. Now I consider that each portion has nothing to do with the others. The fourth portion, as I said, deals with recovery of costs, and it clearly lays down that such costs shall be recovered as arrears of land revenue. This means that the costs will be recovered under the provisions of the Revenue Recovery Act. According to the provisions of the Revenue Recovery Act, the person who is liable to pay any dues is only the registered holder and the Government can recover their dues by proceeding against the land. It is nowhere laid down that Government have got a right under the provisions of the Revenue Recovery Act to proceed against the occupier or the owner. Similar difficulties were felt in the working of the Irrigation Cess Act and the High Court has held, in numerous decisions, that the Government have no right to proceed against any other person except the registered holder. In order to rectify this, an amending Bill was introduced specially with regard to the Irrigation Cess Act, and it is now law. Therefore, by merely creating an obligation on the part of the registered holder, the owner or the occupier to maintain the survey stones no provision is incorporated in the Revenue Recovery Act to recover the amount from either the owner or the occupier. As I have already submitted, according to the provisions of the Revenue Recovery Act, Government have got the right only to proceed against the registered holder, and they cannot proceed against any other person. That is the interpretation, if I remember aright, held by the High Court about the working of the Irrigation Cess Act, and, therefore, I do not think any trouble will arise if the remaining portion of the clause is left as it is. Even the clearing up of any doubts is unnecessary."

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Mr. B. MUNISWAMI NAYUDU :—" Mr. President, I rise to support the amendment. It has been stated that the passing of this amendment will make the latter portion of the clause inconsistent with the former portion. This clause consists of two parts, one imposing an obligation on the registered holder, and the other prescribing the method of procedure by which Government is to recover the cost in case of default by the former in maintaining the survey marks, etc. If the whole had been drafted in two different clauses, I do not think any objection would have been taken ; but the fact that the two parts are incorporated in one and the same clause has given rise to all these objections. It has been explained from the very beginning that the object of bringing in the owner or the occupier in addition to the registered holder, who under the Revenue Recovery Act is the only person against whom action can be taken, is to enable the latter to proceed against those persons to recover the cost which he may have been unjustly called upon to pay. In fact that has been the main object in carrying that amendment. Now the question has arisen whether Government can proceed both against the registered holder and also against the owner or occupier and this has to be settled in the clause itself. No doubt Mr. Narasimha Raju said that under the Revenue Recovery Act the Government would not have any right to proceed against the owner or the occupier. At any rate the hon. the Law Member did not give us any definite answer regarding that. But now that differences have arisen, and seeing that we are not agreed as to the interpretation to be put upon the clause, it is better that we err on the side of being more explicit than leave the matter where it is so as to be taken to courts of law at considerable expense. Secondly, the Advocate-General said that it might be that the registered holder could not be traced and that at the same time they could not proceed against the owner or the occupier. If that were one of the contingencies which the Government wanted to provide against, they should have anticipated it long long ago. But I submit, Sir, that with regard to the new amendment, both as regards the first portion and the second portion of it, there does not seem to be really any objection in substance. Then, with regard to the other matter, viz., the amendment relating to 'in default of his doing so *within the period*,' I submit that this is an essential condition, because there is an amendment, later, from me, and it is only after notice is given that the repairs should be done and cost recovered. If this amendment 'within the prescribed period' is accepted, it will be open later on to fix a certain period within which it should be done and to impose penalties, etc., for default.

"In these circumstances, I strongly support the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I would only like to point out to my friend, Mr. Muniswami Nayudu, the significance of the words 'apportion the costs'. I take it that these words imply that the Government should apportion the cost of the survey between the three classes of persons mentioned in the preceding portion of this clause. Therefore, logically it will follow and it will be within the meaning of the clause, that, if the Government wish to apportion the cost between the registered holder and the owner and the occupier, it will be competent for them to do so under the clause. But if the amendment of my friend, Mr. Krishna Rao, is accepted, the cost should be recovered only from the registered holder, and that is the inconsistency of the present amendment apart from the merits of the previous

Clause 15—cont.

amendment. Logically, the purpose with which my friend Mr. Krishna Rao proposes his amendment will be met by the exact wording of clause 15. I suggest, therefore, that my friends, Mr. Krishna Rao, Mr. Muniswami Nayudu and all the other gentlemen who are interested in seeing that the matter is properly settled, may talk it over with my friend, the hon. the Law Member. This clause may stand over till to-morrow, and I suggest that we should go on with the other amendments on the agenda. That will enable this clause to be properly settled and to be brought up to-morrow."

The hon. Mr. K. SRINIVASA AYYANGAR :—" I may say at once, Sir, that the Government had no desire to levy the cost on anybody except the registered holder. But as I understood from the amendment which was previously proposed by my friend, Mr. Siva Rao, it appeared to me that he was anxious that not merely the registered holder, but if the owner or the occupier happened not to be the registered holders, they also should be made liable. I could see no objection to it, so far as the Government is concerned. If, for instance, you now want to restrict the recovery only to the registered holder, then, as has been pointed out by my friend, Mr. Ramachandra Rao, it will certainly lead to inconsistency. If the idea in moving the original amendment was that there should be a right of contribution, or a right of recovery by subrogation from the person who is ultimately bound to pay, the easiest course would have been to propose a small amendment to clause 25. Under clause 25 which governs the survey both in Government land and in proprietary land,

> a proprietor or registered holder of any estate or Government land under survey, who incurs any expenses or from whom any expenses are recovered under this Act in respect of such survey, shall . . . acquire a charge, etc.

" The expenses under clause 15 must come in under the expenses of survey, because a survey is finished as soon as we plant the stones. Now that the amendment to clause 15 has been passed, I think it is for the House to consider carefully what exactly they want to give to the Government or what exactly they do not want to give them.

" Again, Sir, I must say that when we are proposing really substantial amendments, and not merely verbal or consequential amendments, there must be some time given, not merely to the other members of the House, but also to the members on this side, or to the member in charge, to consider how the language can be made to tally with the existing clause. In these circumstances, I, personally, see no objection to taking up this clause to-morrow morning, and, in the meantime, a draft may be put in so as to bring it in conformity with the wishes of this House."

The motion to adjourn clause 15 till the next morning was then put and carried.

Clause 16.

Mr. S. ARPUDASWAMI UDAYAR :—" I move

3 p.m. 42. *After the word 'aware' in line 42, insert the words 'by personal inspection consequent upon the application in writing, or representation in person, by the proprietor or registered holder.*

" My object in moving this amendment is to make the operation of this clause beneficial to the ryots while promoting the objects of village administration. The ryots require protection against their powerful

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Clause 16—cont.

neighbours. Taking advantage of the poverty of some ryots and their lack of influence or a powerful following, their unscrupulous neighbours tamper with the survey stones, and their only recourse is the law courts with all the delays and cost of litigation and, especially in the case of the members of the depressed classes, they dare not take action for fear of being defeated or being molested. My only objection to this clause is that, though it provides a remedy for an evil, it may, at the same time, become an evil by itself. Of the two village officers, the village headman and the karnam, the latter is an important officer being a man with brain and accurate knowledge of the land in the village or villages within his jurisdiction. Very often he is an absentee accountant, who, to satisfy the regulations, owns his house or rents a house in the village and is present there only when his duties require him or when they duly announce the visits of revenue officers. Again, he is a very shrewd man. There is no village which has not two or three parties. He knows very well the party which has means, influence and power on its side and which has also the sympathy, support and at times the active leadership of the village headman. Generally he sides the party favoured by the headman. From this it follows that sometimes he may become aware of the situation and at other times he may act as if he is not aware of it. Sometimes he may have his eyes wide open and at other times he may act as if nothing had taken place. Therefore, the power with which he is armed by this clause may become in the natural course of things a source of trouble to the villagers. We are all aware of the extraordinary powers weilded by these officers who are to the ryots the district magistrate and even His Excellency. What can be done by a karnam cannot be done even by His Excellency the Governor. I think that personal inspection should be insisted upon as one of the duties of the village officer. In order to enable the ryot to take the initiative instead of allowing the matter to be reported by the village officer, I move this amendment. In order to ensure that the karnam will also see that the survey stones are not tampered with I wish, with your permission, to move the amendment in this way,

'*when he becomes aware by personal inspection in the usual discharge of his duties or consequent upon the application in writing, or representation in person, by the proprietor or the registered holder*'."

Mr. R. Srinivasa Ayyangar seconded the amendment.

Diwan Bahadur L. A. Govindaraghava Ayyar:—"I rise to a point of order. My hon. friend said in the amendment that he proposed,

'*if he becomes aware by personal inspection in the ordinary discharge of his duties . . .*'

"That is not to be found in the notice of his amendment."

The Deputy President:—"He added it with my permission."

The hon. Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur:—"I am thankful to the hon. Member who has just spoken for giving me a really grand picture of the great powers, the intelligence and usefulness of the village officials. I am told that the village karnam is regarded in the village as a more important factor in the administration of the province than His Excellency himself, and that is news which I should

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Clause 16—cont.

certainly welcome for I take it as a compliment to the village headman himself that he is regarded as a useful and effective factor in the village organization."

Mr. T. SIVASANKARAM PILLAI :—" He meant to say that the karnam was capable of mischief which even the Governor cannot rectify."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I should have been glad if the hon. Member who spoke himself rose to a point of order. However, be that as it may.

" I may state that the first few words which the hon. Member wishes to add namely,

by personal inspection in the ordinary discharge of his duties or consequent upon the application in writing or representation in person by the proprietor or the registered holder

admits of three main divisions. In the first place, he allows the village officer to make a report more or less under the same conditions as are to be found in clause (*b*). When we are talking of an official and when we are talking of knowledge which that official is utilizing in the discharge of his duties, we should remember that the knowledge which he has derived has been derived in the discharge of his duties. Therefore, the new words which are proposed to be added are, to my mind, absolutely unnecessary. It is unnecessary to say that when he becomes aware of a particular fact in the discharge of his duties he must make a report. How else he may become aware of the fact I am at a loss to know. The second portion of his amendment is :—

Consequent upon the application in writing.

" Well, Sir, when I have cast a duty under law upon the village official to make a report of what comes to his knowledge as an official in that village, I cannot understand why it should be laid down in the same legislation that he must take great care to report even things which come to his knowledge on the application or report of a party. When the law places a duty upon him of making a report of everything which comes within his official knowledge it is assumed that that official knowledge may be derived either from what he has himself seen or from what another individual has brought to his notice or from other facts which have come to his knowledge. All these things, Sir, are absolutely understood and they may safely be said to be included in the word 'aware' which when translated only means 'aware in the discharge of his official duties'. Thirdly, the mover has put down that an application in writing should be made. Well, I am afraid that he is throwing much of the responsibility on the poor ryot who will probably very often find it impossible to make a written application. Then comes the representation in person by the proprietor or registered holder.

" All these things, I assume, are more or less matters which should be left to the rules which will be framed by Government about the manner in which the village officials should conduct their inspection, how they should make their report and how, before making such report, they should be satisfied with the particular matter which they bring to the notice of the Government. So, I think, it is not at all necessary to burden legislation with the meticulous manner in which a particular official should become aware of a certain

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Clause 16—cont.

fact in the discharge of his duties and teach him how, before making a report, he should make personal inspection, hear representations, receive written applications and so on and so forth. In view of these things I think the clause may be left as it is. It is not fair to regard the village official—seeing that a good deal of credit is given to his intelligence—as not being so intelligent as to find out the ways and means by which he can gain information on any particular matter before he makes any report to his superior officers. If you are going to lay down an order—' in no case except in matters in which applications or representations have been made to him '—the rule will become absolutely unworkable. But if we are going to give power to the village official not merely to rely upon these two methods of report but also use the personal knowledge he gets in the course of discharging his duties, the other two things become absolutely unnecessary. He will then be asked probably to maintain and submit to his superior officer a register in which he will have to note down cases which he himself notices without applications, cases which he inspects after written applications and cases which he inspects after oral applications. It will be making the thing rather difficult and unworkable."

Mr. T. Sivasankaram Pillai :—" Though it is necessary to safeguard against all possible troubles to the ryot, I fear that the amendment that is proposed is unnecessary for two reasons. The first is that it is a matter, if at all it is important, which may be provided for by rules under clause 26. Sub-clause *(a)* of clause 26 prescribes the different localities, the subdivisions thereof and the description of the survey marks and provides for the maintenance, renewal and repair of such marks. In framing rules to regulate this part of the work of the Survey officer, effect may be given to the suggestion that is implied in this amendment. That is one reason. Reason No. 2 is that the village officer or the village accountant is not supposed to take action directly but only to report the fact to the prescribed officer. Probably rules will be framed requiring the ryot concerned to supply the stones and do the necessary things. In view of these two reasons, I should say that the amendment is unnecessary."

Mr. S. Arpudaswami Udayar :—" I am sorry the hon. the Revenue Member has missed the point of my argument. I spoke of the shrewdness of the village officer ; at the same time I made special mention of the injurious effect that the village officer could bring about by joining any one of the two or three rival parties in the village. This intelligence and shrewdness and other capabilities are very often diverted into channels not very healthy or desirable for the interests of the ryot. Consequently my only interest in proposing this amendment is to guard against all arbitrary and capricious exercise of powers in this particular case. Mr. Sivasankaram Pillai has just told us that in cases where survey stones are missing a mere report is made.

" From my own personal experience, Sir, I may tell you that, as I happen to be an absentee landlord, several of my survey stones have
3-15 p.m. been removed or destroyed, and for the last three or four months I am trying to have this matter satisfactorily arranged. Thus, there are men who are mischievously inclined and give a lot of trouble to the poor ryot. I, therefore, insist on personal inspection by the village officers. I do not think that the village officers are aware of these things in the

Clause 16—cont.

ordinary discharge of their duties. That is why I say 'by personal inspection in the ordinary discharge of their duties.' They have to go and examine the place instead of sending reports based on the information they receive from others. But it may be contended, Sir, that the officer will take due notice of the missing stones and in that way justice may be done. Yet it is better if the village headman or accountant makes a personal inspection of the place.

"As regards application in writing, I inserted this, because very often the villagers have to run after village officers and make repeated representations to them. Sometimes these representations are heeded, but often they are disregarded. A great deal of time and effort can be saved if we have such a provision as this, and this will also be a method of inviting the village officer to an important branch of his duty. Further the village officer will not afterwards say that he had no knowledge of the thing, and that no representation had been made to him. Again, I do not entirely insist on a written application. Representation in person may also be made. The hon. the Revenue Member spoke of certain rules which would be framed and said that in those rules provision might be inserted for these things being properly carried out. If he gives me an assurance that in the framing of these rules, everything will be done to safeguard the interests of the ryots, it will satisfy me. I should like to have such an assurance before I withdraw my amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I shall read very carefully the speeches that have been made both yesterday and to-day, digest them, and try as far as possible to give effect to the wishes of the House in framing the rules."

The amendment was by leave withdrawn.

The following amendment was not moved, and was therefore deemed to have been withdrawn :—

Mr. K. PRABHAKARAN TAMPAN :—

43. *Before the word 'the' in line* 45, *insert the words 'the registered holder of Government land and to'.*

The following amendment was deemed to have been withdrawn, the Member not being in his place :—

Rai Bahadur T. M. NARASIMHACHARLU :—

44. *Omit the full stop at the end and add the words 'and to give notice in writing of the same to the registered holder, owner or occupier of the land'.*

Clause 16 was put and passed and added to the Bill.

Clause 17.

Sub-clause (*b*).

The following amendments were not moved and were therefore deemed to have been withdrawn :—

Sri M. V. APPARAO Bahadur :—

45. *Omit the words 'for the better or more convenient assessment or levy of irrigation cess'.*

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Clause 17—cont.

Mr. K. PRABHAKARAN TAMPAN :—

46. *After the word 'cess' at the end of clause* 17 (*b*) (*i*), *insert the words 'or land revenue'.*

Proviso.

Sri M. V. APPARAO Bahadur :—

47. *For all the words beginning with 'unless the' in line* 19 *substitute the words 'unless the Local Government sees reason to direct the continuance of survey at its own expense'.*

Clause 17 was put and passed and added to the Bill.

Clause 18.

The following amendment was deemed to have been withdrawn, the Member not being in his place :—

Mr. K. PRABHAKARAN TAMPAN :—

48. *Add the following as a proviso* :—

'*Provided that nothing contained in sections* 13 *and* 14 *shall preclude the operation of sections* 6 *and* 19 *of Act III of* 1896, *Malabar Land Registration Act.*'

Clause 18 was put and passed and added to the Bill.

Clause 19.

S. R. Y. ANKINEDU PRASAD Bahadur :—"Mr. President, Sir, I beg to move the amendment standing in my name which runs as follows :—

49. *For clause* 19 *substitute the following* :—

'19. *All costs incurred by the Local Government on account of a survey directed under clause* (*a*) *of section* 17 *shall be recoverable from the persons who have any interest in the estate, portion of estate or boundary of which the survey has been ordered as an arrear of land revenue; provided that the cost of a survey directed under clause* (*b*) (*i*) *and* (*ii*) *of section* 17 *shall be borne by the Local Government unless otherwise prescribed by any law for the time being in force.*'

"The object of my amendment is only to retain the provisions under sections 17 and 19 of the existing Act. Section 17 of the existing Act gives power to the Government to direct the survey of an estate in two ways. First, the proprietor himself may apply for the survey of the estate. Secondly, even without the application of the proprietor, the Government may themselves direct the survey of an estate for reasons specified by them. Under section 19 of the existing Act, in the former case, the Government may recover the expense of the survey from the proprietor concerned and in the latter case the Government have to bear the expense of the survey. Now, under the proposed Bill, a new clause, 17 (*b*), has been introduced which runs as follows :—

Without such application whenever in the opinion of the Local Government such survey is necessary (i) for the better or more convenient assessment or levy or irrigation cess, (ii) for any other reason to be recorded prior to the issue of such notification.

[S. R. Y. Ankinedu Prasad Bahadur] [21st December 1922

Clause 19—cont.

" Clause 19 of the present Bill says :

All costs incurred by the Local Government on account of a survey directed under clause (*a*) of section 17 and such portion of the cost of the survey under clause (*b*) (*i*) of the section as the Local Government may prescribe shall be apportioned in the prescribed manner among the persons who have any interest in the estate, portion of estate or boundary of which the survey has been ordered and shall be recoverable from such persons in every case as an arrear of land revenue. The cost of a survey directed under clause (*b*) (*ii*) of section 17 shall be borne by the Local Government unless otherwise prescribed by any law for the time being in force.

" It will be seen from these provisions in the present Bill that if the survey is to be conducted for the purpose of levying an irrigation cess, the cost of the survey is to be borne by the proprietor and not by the Government. This is quite an innovation which has been introduced in this Bill.

" Now, the reasons that are urged by the hon. the Revenue Member for introducing these provisions in the Bill as set forth in the Statement of Objects and Reasons appended to the Bill are these : that by making a survey, the proprietor as well as the Government will be benefited alike, and that the survey in Government villages has been completed and the survey in zamindari villages is yet to take place. As regards the benefits to be derived by the proprietor, I do not see how any proprietor is to derive any benefit if the survey is to be conducted for the levying of irrigation cess. By introducing irrigation, it is only the Government and the ryots that are benefited. The Government is benefited because it realises Rs. 5 per acre by levying the irrigation cess ; and the ryot is benefited because the fertility of his land is increased. On the other hand, under the provisions of the Madras Estates Land Act, the proprietor cannot enhance the rate of kist that is paid to him by the ryot even though the land is benefited by irrigation sources, unless the proprietor supplies water from his own sources. In these circumstances, I do not see how any proprietor can be benefited by the survey conducted for the purpose of levying irrigation cess. The introduction of this provision in this Bill is not at all necessary for the settlement of disputes between the proprietor and his tenants ; for, under chapter 11 of the Madras Estates Land Act, the proprietor or the ryots may apply to the Government for conducting a survey, or the Government themselves may direct the conduct of a survey if any agrarian disputes arise between the proprietor and the ryots, and the cost will be borne by the persons concerned. So far as the agrarian disputes and the assessments are concerned, there is no necessity for introducing these provisions at all.

" Then, it is said that the survey of Government villages has been completed and the survey of the zamindari villages is to be undertaken. According to my information, the cost of the Survey Department is now over six lakhs of rupees and if it has no work to do, the Government may as well abandon this costly department and have only such establishment as is necessary for their purpose. Further the cost of survey now is very prohibitive. According to the pre-war rates, the cost of surveying each square mile came to Rs. 1,000, but, now, as the cost of the establishment has considerably increased, the cost of survey per square mile has also considerably increased.

" Most of the small estates will collapse if they are made to pay the expenses of survey by which only the Government or, at most, the ryots, will be benefited. If this provision is passed by the Council, it will create great hardship to the zamindars and will be levying a sort of

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Clause 19—cont.

unfair impost on them. It will be uncharitable on the part of the Government to burden them with this tax for the survey which will only benefit the Government. With these few words, I beg to move this amendment for the kind consideration of this Council."

Mr. R. APPASWAMI NAYUDU:—"Sir, I beg to second the motion. In doing so, I should like to point out some irregularities in clause 19. Clause 19, so far as 17 (*a*) is concerned, runs thus: 'All costs incurred by the Local Government on account of a survey directed under clause (*a*) of section 17 shall be apportioned, in the prescribed manner, among the persons who have any interest in the estate, etc.'

"I do not see wherein lies the cause for apportionment in a case where each man has to bear his own cost. I find no justification for a man who is interested in the survey of a boundary to pay any cost to the proprietor any more than a proprietor can claim his cost from the man who is interested in the survey of a boundary. The interest of each man is quite distinct and separate and not in the least identical. On the other hand, if there are two proprietors or more concerned in the survey of an estate, or if there are two or more ryots who are interested in the survey of an estate, and who, in conjunction with the proprietor, require the survey, or in the case of a boundary, if more persons than one are interested, then I can understand the apportionments of costs among such men. The apportionment under clause 17 (*a*), as it is, is not justifiable. The relative position of individuals, sought to be created under this clause, seems to me quite anomalous. So the words 'shall be apportioned' should be deleted. With regard to section 17 (*b*) (i), it is clearly stated that 'such portion of the cost of survey shall be apportioned in the prescribed manner among the persons who have any interest in the estate.' Sir, the interested party in the case is the Government. Neither the proprietor nor the ryot shares in the profit of the Government. On the other hand, the proprietor or the ryot will be the losers, and to make the losers bear the cost of the survey will, in my opinion, be unjustifiable. Since the interested party is the Government, they should bear the cost. So, clause 19 as amended by the hon. the mover, so far as 17 (*a*) and (*b*) are concerned, should be accepted. With these observations, I second the amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I am very glad that our zamindar friends who have proposed and seconded the amendment, accept at least the provisions relating to the recovery of expenses under clause 17 (*a*). That ground being cleared, the only issue between the Government and the zamindar members of this House will be the proposed recovery under sub-clause (*b*) (i) and (ii). Even as regards (ii), it may at once be stated that according to the provisions contained in clause 19, the cost of a survey undertaken under (*b*) (ii) will be borne by the Local Government unless otherwise prescribed by any law for the time being in force. Then the only difference between us will be as regards the justification for the insertion of a provision in clause (*b*) (i). It is true that in this case there is no application from the proprietor. It is equally true that the Government derive some benefit from the survey, the nature of such benefits being specifically mentioned in the body of the clause itself. I am surprised to be told that, as the result of such a survey, the proprietors get no benefit whatsoever. The survey, as we all know, will at once

Clause 19—cont.

result in the benefit of giving to the proprietor an accurate registration of the lands surveyed. In the second place, it will give the proprietor an idea whether the rent that he has been recovering from his tenants is in proportion to the actual registration made by the Survey Department. And, thirdly, it will also enable him to look to future enhancement of his rent in proportion to the results of the survey. By virtue of this benefit from the survey, which though not conducted on his own application, but conducted for some other purpose, he will, I think, be saving a lot of money in the future. Once the survey has been made by the Government in a particular tract of a zamindari—it may be on the proprietor's application, it may be for a purpose quite different from the immediate interest of the proprietor—the results of the survey will be there. The results will, for all time to come, be availed of by the zamindar; so that, if at a later period it becomes necessary for the zamindar to ask for the survey of his own zamindari, at that time he will necessarily ask for the survey of that portion of the zamindari only which has not previously been surveyed. To that extent he will, indeed, have gained financially.

"Then, Sir, one hon. Member, I think the seconder of the motion, wondered what was intended to be conveyed by the words—

Apportioned in the prescribed manner among the persons who have any interest in the estate, portion of estate, or boundary of which the survey has been ordered.

"I think, Sir, the provision is there more to the gain of proprietors themselves."

Mr. R. APPASWAMI NAYUDU:—"There is only one proprietor mentioned in clause (*a*); for apportionment there ought to be more proprietors."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"In legislation, when a singular noun is used, it includes its plural also. 17 (*a*) merely refers to the application. A motion has to be made by somebody. When Government has accepted the request of the proprietor for the conduct of the survey, and the proprietor on his part has also carried out the conditions that are specified in the proviso to clause 17, then, after the survey is completed, the Government determine in what proportion the cost must be recovered, and clause 19 distinctly lays down that the cost will be apportioned in the prescribed manner about which, of course, rules will be framed under clause 26. There is, therefore, nothing that is not clear in that provision. As regards (ii) of sub-clause (*b*), the Government have already undertaken to bear the whole of that expense, and I do not think that the last few words which qualify that clause, viz.:

Unless otherwise prescribed by any law for the time being in force

can in the least be taken any objection to.

"For, if there is another enactment by which the proprietor is bound to pay—I think my hon. friend referred to the Estates Land Act—then, of course, this provision will not override the provisions already existing in another enactment. Barring those few exceptions the entire cost of the survey conducted under sub-clause (*b*) (ii) will be borne by the Government for the reason given for the conduct of a survey under sub-clause (*b*) (ii), i.e., for any other reason to be recorded prior to the issue of such notification. Well, Sir, that question was very carefully considered, and Government came

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Clause 19—cont.

to the conclusion that under sub-clause (*b*) (ii) there was probably no justification whatsoever for asking the proprietor to share the burden. Then, after everything is said and done, the Government, as will be seen from clause 19 (*b*) (i), have not specifically mentioned that a particular proportion of this expenditure will be recovered from the proprietors or will be apportioned amongst those who are interested in the land. Each case will certainly be decided on its own merits, and if, in any particular case, it is found that the benefit to be derived from a particular survey conducted under sub-clause (*b*) (i) is more to the advantage of the Government and less to the advantage of the proprietor, one can expect Government not to be so unreasonable as to throw a larger burden of the expenditure on the shoulders of the proprietor and bear the lesser burden themselves. But if, on the other hand, there is a certain survey conducted which, though not made on the application of the proprietor, will be indirectly very beneficial to the proprietor in the long run, of course, the Government should also reserve the power to themselves of taking a larger share from the proprietor, and themselves bearing the smaller one. As I said, each case will have to be decided on its own merits. Government did not wish to lay down any proportions, as the proportions would be decided later on when rules would be framed. When the rules are framed all these details will be considered, and I am quite sure that my zamindar friends who are in this Council will read these rules and see to it that the rules do not contain any principles which may be obviously injurious to their interests. Let not, therefore, the proprietary landholders try to create any distinction between themselves and other land-owners in the matter of shouldering responsibilities incidental to the administration. For, if exemption is given merely on the ground that they do not ask for it although they derive benefit from it, I cannot understand why the ryotwari landholders should be subjected to shoulder the responsibilities of a survey which they do not ask for but which we impose on them at the end of every 30th year for the purpose of resettling our own land revenue. We desire to get the benefit of every resettlement and we instal a settlement party, and none the less expect every ryotwari owner to share this burden. Let not any distinction be made in that way, and I only hope that my zamindar friends will show a larger heart and approve of this proposal."

The Raja of Mandasa:—" Mr. President, Sir, I rise to support the amendment moved by my hon. friend the Zamindar of Challapalli. It seems to me very hard that an estate should be burdened with survey charges when it is not benefited in any manner. If Government chooses to effect a survey in its own interests or for the purpose of raising revenue, the charges of such survey should be borne by the Government. I am not able to see the justice of this provision in the Bill which seeks to carry on survey works on the settled boundaries between landholders or pattadars. If survey is carried on in order to determine any dispute between the Government and the estate, it may be reasonably urged that the charges should be borne equally by both parties. But when it is a matter of one side only, and Government proposes to conduct a survey in order to ascertain revenues payable to it, it seems to me unjust that the estate should be burdened with these charges. In all other ordinary cases, when an estate is surveyed on the application of the landholders, it is but proper that its charges should be paid by the parties."

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Clause 19—cont.

Sri M. V. APPARAO Bahadur:—" Sir, I thank the hon. the Revenue Member for enumerating some of the benefits that will be, I may say, imposed upon us by this survey. It is really very good of him, but we do not want to take advantage of these benefits; we do not like to take the part of the unwilling bridegroom in a marriage (laughter). For myself, I do not think that there will be any benefits accruing to us. But even supposing that there are some benefits, I do not see why these benefits should be imposed upon us. After all, what are these benefits? As has been explained by the hon. the Revenue Member, one is that the zamindars may get some benefit at some future time or other from the survey and settlement records. Well, for the matter of that, any third party may get the benefit from these survey records, or have recourse to them.

" Then, Sir, Government have already surveyed the wet land in some of the estates in the delta districts of Godavari and Kistna. Supposing a resurvey is ordered, I do not see what benefit these estates will derive from the resurvey. I may submit, in supporting the amendment proposed by my hon. friend, Sri Raja Ankinedu Prasad Bahadur, that we, zamindars, strongly protest against these surveys being imposed upon us."

Rao Bahadur C. V. S. NARASIMHA RAJU:—" Mr. President, Sir, the hon. the Revenue Member was pleased to observe that there was no substantial difference between him and the mover of this amendment as far as the provisions of clauses 17 (*a*) and 17 (*b*) (2) were concerned, and that the difference between him and the mover was regarding the recovery of cost when survey was made under section 17 (*b*) (1). He said that when a survey was made the zamindar also would be benefited. He mentioned that the zamindar would, first, have the satisfaction of having an accurate register of occupied land, secondly, he would know how the level of assessment stood in each zamindari, and, thirdly, he would know what chances there were for enhancing the assessment. Of course, the level of assessment and the enhancement of it are closely connected with one another, and we may take them together for all practical purposes. But I am afraid, in his enthusiasm, the hon. the Revenue Member forgot the provisions of the Estates Land Act. The limitations put upon the zamindar, under that Act, on the enhancement are very great and the chances are very problematical. Of course, if the zamindar feels that there is any such chance, he is the better judge of the circumstances and will certainly apply, under section 17 (*a*), to the Government, and will not like to take advantage of another survey made under the provisions of clause (*b*) (1). The real intention and the real purpose are mentioned in the clause itself. At the end of the clause we find that the survey is to be made for the better or more convenient assessment or levy of irrigation cess. Now we have to see who is benefited. As far as the levy of irrigation cess is concerned, not a single pie out of it goes into the pockets of the zamindar. The whole of it is levied in the interests of the provincial revenue. And when provincial revenue is benefited, it stands to reason that the whole cost of it must be borne from the provincial revenues. Then he advanced another argument that if the survey was, after all, at the expense of the State and subsequently, the zamindar wanted to have his estate surveyed, he would have the advantage of this survey unpaid for. I may tell the hon. the Revenue Member that when a subsequent survey is to be made, an application will be made to him,

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Clause 19—cont.

and on that application he can dictate his own terms to the zamindar and tell him : 'Here is a case in which we have to incur expenditure from the provincial revenues in resurveying a portion of the estate. If you pay the cost, we shall undertake the survey.' This is a matter more or less between the zamindar and the Government. It is like any transaction in which each party can examine and consult his own interests and enter into it. Therefore, I do not think that the argument that the zamindar will be benefited subsequently will stand any test. It has been further said that there is already provision in clause 19, as it stands, for apportioning the cost between the zamindar and the Government. If I understood the hon. Member aright, that was the argument he advanced, when he said that rules would be prescribed and the cost apportioned according to those rules, and when he said that we should not expect the Government to be so unreasonable as to recover the whole cost and that the provincial revenues would bear a proportion of it. But if we examine closely the wording of the clause, there is nothing in it to indicate that the cost will be borne between the zamindar and the Government when a survey is made under the provisions of sub-clause (*b*) (i)."

At this stage the House adjourned to meet again at 11 a.m. the next day (Friday, the 22nd December 1922).

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

APPENDIX D.

[Vide page 1108 supra.]

MADRAS LEGISLATIVE COUNCIL.

STUDY OF PARLIAMENTARY PROCEDURE BY THE SECRETARY, LEGISLATIVE COUNCIL.

Letter from M.R.Ry. Diwan Bahadur L. D. SWAMIKANNU PILLAI Avargal, I.S.O., Secretary, Madras Legislative Council, to the Secretary to Government, Law (Legislative) Department, dated the 21st August 1922, No. 1669-1-L.C.

I have the honour to state that in pursuance of the orders of Government placing me on deputation in Europe for the purpose of studying parliamentary procedure, I sailed from Colombo on 8th April 1922 by the steamship *Andre Lebon* (Messageries Maritimes), arrived in London on 26th of the same month and, after getting introduced to the Clerk of the House of Commons and to the Speaker and his Secretary, began to attend the House of Commons from the 1st of May ; and I continued to do so, generally on four days of the week, Monday, Tuesday, Wednesday and Thursday, and sometimes also on Friday, which is a short day in Parliament. I attended the House of Commons for the last time on the 7th July 1922 on